Manual of Policies and Procedures
COMMUNITY CARE LICENSING DIVISION

GENERAL LICENSING REQUIREMENTS

Title 22
Division 6
Chapter 1

STATE OF CALIFORNIA
HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES

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This Users' Manual is issued as an operational tool.

This Manual contains:

a) Regulations adopted by the Department of Social Services (DSS) for the governance of its agents, licensees, and/or beneficiaries

b) Regulations adopted by other State Departments affecting DSS programs

c) Statutes from appropriate Codes which govern DSS programs

d) Court decisions; and

e) Operational standards by which DSS staff will evaluate performance within DSS programs.

Regulations of DSS are printed in gothic type as is this sentence.

Handbook material, which includes reprinted statutory material, other department's regulations and examples, is separated from the regulations by double lines and the phrases "**HANDBOOK BEGINS HERE**", "**HANDBOOK CONTINUES**", and "**HANDBOOK ENDS HERE**" in bold print. Please note that both other departments' regulations and statutes are mandatory, not optional.

Questions relative to this Users' Manual should be directed to your usual program policy office.

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CHAPTER 1 -- GENERAL LICENSING REQUIREMENTS

Article 1. GENERAL DEFINITIONS

80000 GENERAL 80000

(a) The general regulations in this chapter shall apply to all community care facilities regulated by Division 6, Chapters 4 through 6, and Chapter 9, except where specifically exempted. Additional or special requirements found in the corresponding chapters pertaining to each category shall apply only to such individual facility categories.

(b) The licensee shall ensure compliance with all applicable law and regulations.

(c) Repealed by Manual Letter No. CCL-91-26, effective 5/28/91.

(d) Repealed by Manual Letter No. CCL-91-26, effective 5/28/91.

(e) Repealed by Manual Letter No. CCL-91-26, effective 5/28/91.

(f) Repealed by Manual Letter No. CCL-91-01, effective 1/9/91.

(g) Repealed by Manual Letter No. CCL-91-01, effective 1/9/91.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1502, 1530 and 1531, Health and Safety Code.

80001 DEFINITIONS 80001

The following general definitions shall apply wherever the terms are used throughout Division 6, Chapters 1 through 1, 4 through 6, and 9, except where specifically noted otherwise. Additional definitions found at the beginning of each chapter in this division shall apply only to such specific facility category.

(a) (1) "Activities of Daily Living" (ADLs) mean the following six activities:

(A) Bathing: Cleaning the body using a tub, shower or sponge bath, including getting a basin of water, managing faucets, getting in and out of tub or shower, reaching head and body parts for soaping, rinsing and drying.

(B) Dressing: Putting on and taking off, fastening and unfastening garments and undergarments and special devices such as back or leg braces, corsets, elastic stockings/garments and artificial limbs or splints.

(C) Toileting: Getting on and off a toilet or commode, emptying a commode, managing clothes, wiping and cleaning the body after toileting, and using and emptying a bedpan and urinal.

(D) Transferring: Moving from one sitting or lying position to another sitting or lying position (e.g., from bed to or from a wheelchair, or sofa, coming to a standing position and/or repositioning to promote circulation and to prevent skin breakdown).

(E) Continence: Ability to control bowel and bladder as well as to use ostomy and/or catheter receptacles, and to apply diapers and disposable barrier pads.

(F) Eating: Reaching for, picking up, grasping a utensil and cup; getting food on a utensil; bringing food, utensil, and cup to mouth; manipulating food on plate; and cleaning face and hands as necessary following meal.

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See also the definition of "Client Who Relies Upon Others to Perform All Activities of Daily Living" in Section 80001c.(7).

HANDBOOK ENDS HERE

(2) "Administrator" means the licensee, or the adult designated by the licensee to act in his/her behalf in the overall management of the facility.

(3) "Adult" means a person who is 18 years of age or older.

(4) "Adult Community Care Facility" (Adult CCF) means an adult residential facility (ARF).

80001 DEFINITIONS (Continued) **80001**

(5) "Adult Residential Facility" means any facility of any capacity that provides 24-hour-a-day nonmedical care and supervision to the following:

(A) persons 18 years of age through 59 years of age; and

(B) persons 60 years of age and older only in accordance with Section 85068.4.

(6) "Applicant" means any individual, firm, partnership, association, corporation, county, city, public agency or other government entity that has made application for community care facility license, administrator certificate, or special permit.

(7) "Authorized Representative" means any person or entity authorized by law to act on behalf of any client. Such person or entity may include but not be limited to a minor's parent, a legal guardian, a conservator or a public placement agency.

(8) "Automated External Defibrillator" (AED) means a light-weight, portable device used to administer an electric shock through the chest wall to the heart. Built-in computers assess the patient's heart rhythm, determine whether defibrillation (electrical shock) is needed and then administer the shock. Audible and/or visual prompts guide the user through the process.

(b) (1) "Basic Rate" means the rate charged by a facility to provide basic services. For SSI/SSP recipients, the basic rate means the established nonmedical out-of-home care rate which includes any exempt income allowance but does not include that amount allocated for the recipient's personal and incidental needs.

(2) "Basic Services" means those services required by applicable law and regulation to be provided by the licensee in order to obtain and maintain a community care facility license.

(c) (1) "California Clearance" means an individual has no felony or misdemeanor convictions reported by the California Department of Justice. However, the individual may have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.

(2) "Capacity" means the maximum number of persons authorized to be provided care and supervision at any one time in any licensed facility.

80001 DEFINITIONS (Continued) **80001**

(3) "Care and Supervision" means any one or more of the following activities provided by a person or facility to meet the needs of the clients:

(A) Assistance in dressing, grooming, bathing and other personal hygiene.

(B) Assistance with taking medication, as specified in Section 80075.

(C) Central storing and/or distribution of medications, as specified in Section 80075.

(D) Arrangement of and assistance with medical and dental care.

(E) Maintenance of house rules for the protection of clients.

(F) Supervision of client schedules and activities.

(G) Maintenance and/or supervision of client cash resources or property.

(H) Monitoring food intake or special diets.

(I) Providing basic services as defined in Section 80001b.(2).

(4) "Cash Resources" means:

(A) Monetary gifts.

(B) Tax credits and/or refunds.

(C) Earnings from employment or workshops.

(D) Personal and incidental need allowances from funding sources including but not limited to SSI/SSP.

(E) Allowances paid to children.

(F) Any other similar resources as determined by the licensing agency.

(5) "Certified administrator" means an administrator who has been issued a group home or adult residential facility certificate by the Department and whose certificate is current.

80001 DEFINITIONS (Continued) **80001**

(6) "Child Abuse Central Index" means the California Department of Justice maintained statewide, multi-jurisdictional, centralized index of child abuse investigation reports. These reports pertain to alleged incidents of physical abuse, sexual abuse, mental/emotional abuse and/or severe neglect. Each child protection agency (police, sheriff, county welfare and probation departments) is required by law to forward to the California Department of Justice a report of every child abuse incident it investigates, unless an incident is determined to be unfounded.

(7) "Child Abuse Central Index Clearance" means that the California Department of Justice has conducted a name search of the index and the search did not result in a match or the search resulted in a match but the California Department of Social Services determined after an investigation that the allegation of child abuse or neglect was not substantiated.

(8) "Child Care Center" means any facility of any capacity other than a family day care home as defined in Section 102352f.(1) in which less than 24-hour per day nonmedical supervision is provided for children in a group setting.

(9) "Client" means a child or adult who is receiving care and supervision in a community care facility. Client includes "resident" as used in the Community Care Facility Act.

(10) "Client Who Relies Upon Others To Perform All Activities of Daily Living" means a client who is unable to perform all six activities of daily living without physical assistance.

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(See also the definition of Activities of Daily Living in Section 80001a(1).)

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(11) Close friend. "Close friend" means a person who is attached to another by feelings of personal regard as indicated by both parties involved.

(12) "Community Care Facility" means any facility, place or building where nonmedical care and supervision, as defined in Section 80001c.(2) are provided.

(13) "Community Treatment Facility" means any residential facility that provides mental health treatment services to children in a group setting which has the capacity to provide secure containment. The facility's program components shall be subject to program standards developed and enforced by the State Department of Mental Health pursuant to Section 4094 of the Welfare and Institutions Code.

80001 DEFINITIONS (Continued) **80001**

(14) "Completed Application" means:

(A) The applicant has submitted and the licensing agency has received all required materials including: an approved fire clearance, if appropriate, from the State Fire Marshal; a criminal record clearance on the applicant and any other individuals specified in Section 80019.

(B) The licensing agency has completed a site visit to the facility.

(15) "Conservator" means a person appointed by the Superior Court pursuant to the provisions of Section 1800 et seq. of the Probate Code or Section 5350 of the Welfare and Institutions Code, to care for the person, or estate, or person and estate, of another.

(16) "Consultant" means a person professionally qualified by training or experience to provide expert information on a particular subject.

(17) "Control of Property" means the right to enter, occupy, and maintain the operation of the facility property within regulatory requirements. Evidence of control of property may include, but is not limited to the following:

(A) a Grant Deed showing ownership; or

(B) the lease agreement or rental agreement; or

(C) a court order or similar document which shows the authority to control the property pending outcome of a probate proceeding or an estate settlement.

(18) “Conviction” means:

(A) A criminal conviction in California; or

(B) Any criminal conviction of another state, federal, military or other jurisdiction, which if committed or attempted in California, would have been punishable as a crime in California.

(19) “Criminal Record Clearance” means an individual has a California clearance and an FBI clearance.

(d) (1) "Day" means calendar day unless otherwise specified.

80001 DEFINITIONS (Continued) **80001**

(2) "Deficiency" means any failure to comply with any provision of the Community Care Facilities Act (Health and Safety Code, Section 1500 et seq.) and/or regulations adopted by the Department pursuant to the Act.

(3) "Delayed-Egress Device" means a special time-delay, egress-control device as specified in Health and Safety Code Sections 1531.1(b), (e), and 1569.699(a).

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(A) Health and Safety Code Section 1531.1(b) is paraphrased in pertinent part:

As used in this section, "delayed-egress device" means a device that precludes the use of exits for a predetermined period of time. These devices shall not delay any resident's departure from the facility for longer than 30 seconds.

(B) Health and Safety Code Section 1531.1(e) is paraphrased in pertinent part:

The facility shall be subject to all fire and building codes, regulations, and standards applicable to residential care facilities for the elderly utilizing delayed egress devices and shall receive approval by the county or city fire department, the local fire prevention district, or the State Fire Marshal for the installed delayed egress devices.

(C) Health and Safety Code Section 1569.699(a) is paraphrased in pertinent part:

When approved by the person responsible for enforcement as described in Section 13146, exit doors in facilities classified as Group R, Division 2 facilities under the California Building Standards Code, licensed as residential care facilities for the elderly, and housing clients with Alzheimer's disease or demential, may be equipped with approved listed special egress-control devices of the time-delay type, provided the building is protected throughout by an approved automatic sprinkler system and an approved automatic smoke-detection system. The devices shall conform to all of the following requirements:

1. Automatic deactivation of the egress-control device upon activation of either the sprinkler system or the detection system.

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80001 DEFINITIONS (Continued) **80001**

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2. Automatic deactivation of the egress-control device upon loss of electrical power to any one of the following: The egress-control device; the smoke-detection system; exit illumination as required by Section 1012 of the California Building Code.

3. Be capable of being deactivated by a signal from a switch located in an approved location.

4. Initiate an irreversible process that will deactivate the egress-control device whenever a manual force of not more than 15 pounds (66.72N) is applied for two seconds to the panic bar or other door-latching hardware. The egress-control device shall deactivate within an approved time period not to exceed a total of 15 seconds, except that the person responsible for enforcement as described in Section 13146 may approve a delay not to exceed 30 seconds in residential care facilities, for the elderly serving patients with Alzheimer's disease. The time delay established for each egress-control device shall not be field adjustable.

5. Actuation of the panic bar or other door-latching hardware shall activate an audible signal at the door.

6. The unlatching shall not require more than one operation.

7. A sign shall be provided on the door located above and within 12 inches (305mm) of the panic bar or other door-latching hardware reading:

   KEEP PUSHING. THIS DOOR WILL OPEN IN .....SECONDS. ALARM WILL SOUND.

   Sign letters shall be at least one inch (25 mm) in height and shall have a stroke of not less than 1/8 inch (3.3 mm).

8. Regardless of the means of deactivation, relocking of the egress-control device shall be by manual means only at the door.

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(4) "Dementia" means a deterioration of intellectual function and other cognitive skills, leading to a decline in one's ability to perform activities of daily living.

(5) "Department" is defined in Health and Safety Code Section 1502(b).

80001 DEFINITIONS (Continued) **80001**

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(A) Department means the California Department of Social Services.

HANDBOOK ENDS HERE

(6) "Developmental Disability" means a disability as defined in Welfare and Institutions Code Section 4512(a).

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(A) Welfare and Institutions Code Section 4512(a) provides in part: "Developmental disability" means a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely and constitutes a substantial handicap for such individual.

This term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include handicapping conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature.

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(7) "Dietitian" means a person who is a member of or registered by the American Dietetics Association.

(8) "Director" is defined in Health and Safety Code Section 1502(c).

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(A) Director means the director of the California Department of Social Services.

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(e) (1) "Egress-Alert Device" means a wrist band or other device, that may be worn by a client or carried on a client's person that triggers a visual or auditory alarm when the client leaves the facility building or grounds.

(2) "Elderly Person" means any person who is 60 years of age or older.

(3) "Emergency Approval to Operate" (LIC 9117 4/93) (EAO) means a temporary approval to operate a facility for no more than 60 days pending the Department's decision on whether to approve or deny a provisional license.

80001 DEFINITIONS (Continued) **80001**

(4) "Evaluator" means any person who is a duly authorized officer, employee or agent of the Department, including any officer, employee or agent of a county or other public agency authorized by the Department to license community care facilities.

(5) "Evidence of Licensee's Death" shall include, but is not limited to, a copy of the death certificate, obituary notice, certification of death from the decedent's mortuary or a letter from the attending physician or coroner's office verifying the licensee's death.

(6) "Exception" means a written authorization issued by the licensing agency to use alternative means which meet the intent of a specific regulation(s) and which are based on the unique needs or circumstances of a specific client(s) or staff person(s). Exceptions are granted for particular client(s) or staff person(s) and are not transferable or applicable to other client(s), staff person(s), facilities or licensees.

(7) "Exemption" means an exception to the requirements of Health and Safety Code Section 1522 and applicable regulations. Exemptions are not transferable.

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(A) Health and Safety Code Section 1522(g) reads in part:

After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), or for a license, special permit, or certificate of approval pursuant to subdivision (d), or for employment, residence, or presence in a community care facility as specified in subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c).

HANDBOOK ENDS HERE

(8) "Existing Facility" means any community care facility operating under a valid, unexpired license on the date this chapter becomes effective.

(f) (1) “Federal Bureau of Investigation (FBI) Clearance” means an individual has no felony or misdemeanor convictions reported by the FBI. However, the individual may have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile._

80001 DEFINITIONS (Continued) **80001**

(g) (1) "Group Home" means any facility of any capacity which provides 24-hour care and supervision to children in a structured environment, with such services provided at least in part by staff employed by the licensee. The care and supervision provided by a group home shall be nonmedical except as permitted by Welfare and Institutions Code Section 17736(b).

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(A) Welfare and Institutions Code Section 17736(b) reads in pertinent part:

Counties, regional centers and foster family agencies shall permit...the licensee and other personnel meeting the requirements of paragraphs (3), (5), and (6) of subdivision (c) of Section 17731 to provide, in a group home, specialized in-home health care to a child, as described in his or her individualized health care plan provided that the child was placed as of November 1, 1993.

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(2) "Guardian" means a person appointed by the Superior Court pursuant to the provisions of Sections 1500 et seq. of the Probate Code to care for the person, or estate, or the person and estate of another.

(h) (1) "Health Condition Relocation Order" means written notice by the Department to a licensee requiring the relocation of a client from a CCF because either the licensee is not providing adequate care for a client's health condition as required by the regulations or the client cannot be cared for within the limits of the license or the client requires in-patient care in a health facility or has a prohibited health condition, as specified in Section 80091.

(2) "Home Economist" means a person who holds a baccalaureate degree in home economics with a specialization in either foods and nutrition or dietetics.

(i) (1) "Infant" means a child under two years of age.

(2) "Inhalation-assistive device" means any equipment that assists a client to breath, including, but not limited to, aerosol delivery devices, nebulizers, humidifiers, incentive spirometry devices, positive airway pressure devices, and positive expiratory pressure devices, and intermittent positive pressure breathing (IPPB) machines.

(3) "Interdisciplinary Team" (IDT) means a team that assists the Department in evaluating the need for relocating a client of an ARF when the client requests a review of the Department's Health Condition Relocation Order. This team consists of a nurse practitioner and a social worker, designated by the Department, with experience in the needs of the client population. Persons selected for an IDT shall not have been involved in the initial decision to issue a relocation order for the client in question.

80001 DEFINITIONS (Continued) **80001**

(j) (Reserved)

(k) (Reserved)

(l) (1) "Lacks Hazard Awareness or Impulse Control" means that the client poses a risk of harm to himself or herself or others by wandering off or running away from the residence and requires an enhancement to supervision through the use of delayed egress devices and secured perimeters without which the consumer would require placement in a more restrictive, locked residential setting.

(2) "License" means authorization to operate a community care facility and to provide care and supervision. The license is not transferable.

(3) "Licensed professional" means a person who is licensed in California to provide medical care or therapy. This includes physicians and surgeons, physician assistants, nurse practitioners, registered nurses, licensed vocational nurses, psychiatric technicians, physical therapists, occupational therapists and respiratory therapists, who are operating within his/her scope of practice.

(4) "Licensee" means the adult, firm, partnership, association, corporation, county, city, public agency, or other governmental entity having the authority and responsibility for the operation of a licensed community care facility.

(5) "Licensing Agency" means the State Department of Social Services or any state, county or other public agency authorized by the Department to assume specified licensing responsibilities pursuant to Section 1511 of the Health and Safety Code.

(m) (1) "Mandated Reporter" is defined in Welfare and Institutions Code Section 15630(a).

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Welfare and Institutions Code Section 15630(a) provides:

> Any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not he or she receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter.

HANDBOOK ENDS HERE

80001 DEFINITIONS (Continued) **80001**

(2) "Medical Professional" means an individual who is licensed or certified in California to perform the necessary medical procedures within his/her scope of practice. This includes, but is not limited to, Medical Doctor (MD), Registered Nurse (RN) and Licensed Vocational Nurse (LVN).

(3) "Mental Disorder" means any of the disorders set forth in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) of the American Psychiatric Association and a degree of functional impairment which renders a person eligible for the services enumerated under the Lanterman-Petris-Short Act, commencing with Section 5000 of the Welfare and Institutions Code.

(n) (1) "Needs and Services Plan"means a written plan that identifies the specific needs of an individual client, including those items specified in Section 80068.2, and delineates those services necessary to meet the client's identified needs.

(2) "Nonambulatory Person" means a person as defined in Health and Safety Code Section 13131.

(A) A person who uses postural supports as specified in Section 80072(a)(8) is deemed nonambulatory.

(B) A person is not deemed nonambulatory solely because he/she is deaf, blind, or prefers to use a mechanical aid.

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(C) Health and Safety Code Section 13131 provides:

"Nonambulatory persons" means persons unable to leave a building unassisted under emergency conditions. It includes any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger, and persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. The determination of ambulatory or nonambulatory status of persons with developmental disabilities shall be made by the Director of Social Services or his or her designated representative, in consultation with the Director of Developmental Services or his or her designated representative. The determination of ambulatory or nonambulatory status of all other disabled persons placed after January 1, 1984 who are not developmentally disabled shall be made by the Director of Social Services or his or her designated representative.

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(3) "Nutritionist" means a person who holds a master's degree in food and nutrition, dietetics, or public health nutrition, or who is employed as a nutritionist by a county health department.

80001 DEFINITIONS (Continued) **80001**

(o) (Reserved)

(p) (1) "Physician" means a person licensed as a physician and surgeon by the California Board of Medical Examiners or by the California Board of Osteopathic Examiners.

(2) "Placement agency" is defined in Health and Safety Code Sections 1536.1 and 1569.47(a).

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(A) Health and Safety Code Sections 1536.1 and 1569.47(a) are combined and paraphrased in pertinent part:

"Placement agency" means any county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, conservator pursuant to Part 3 (commencing with Section 1800) of Division 4 of the Probate Code, conservator pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code, and Regional Center for persons with developmental disabilities, which is engaged in finding homes or other places for the placement of persons of any age for temporary or permanent care.

HANDBOOK ENDS HERE

(3) "PRN Medication" (pro re nata) means any nonprescription or prescription medication which is to be taken as needed.

(4) "Provision" or "Provide" means whenever any regulation requires that provisions be made for or that there be provided any service, personnel, or other requirement, the licensee shall do so directly or present evidence to the licensing agency that the requirement has been met by some other means.

(5) "Provisional License" means a license which is temporary, nonrenewable and issued for a period not to exceed twelve months. A provisional license is issued in accordance with the criteria specified in Section 80030.

(q) (Reserved)

(r) (1) "Rehabilitation" means the effort to reestablish good character since the date of the last conviction, including, but not limited to, education, counseling or therapy, training, stable employment, restitution, remorse, changes in lifestyle, or community service.

(2) "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or such person denoted by the prefix "grand" or "great" or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.

80001 DEFINITIONS (Continued) **80001**

(3) "Responsible person" means that individual or individuals, including a relative, health care surrogate decision maker, or placement agency, who assists the client or prospective client in placement or assumes varying degrees of responsibility for the client's well-being. A responsible person cannot act on behalf of a client unless authorized by law.

(s) (1) "Serious Bodily Injury" is defined in Welfare and Institutions Code Section 15610.67.

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Welfare and Institutions Code Section 15610.67 provides:

"Serious bodily injury" means an injury involving extreme physical pain, substantial risk of death, or protracted loss or impairment of function of a bodily member, organ, or of mental faculty, or requiring medical intervention, including, but not limited to, hospitalization, surgery, or physical rehabilitation.

HANDBOOK ENDS HERE

(2) "Secured Perimeters" shall have the same meaning as Health and Safety Code section 1531.15(b).

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Health and Safety Code section 1531.15 provides in pertinent part:

(b) As used in this section, "secured perimeters" means fences that meet the requirements prescribed by this section.

(c) Only individuals meeting all of the following conditions may be admitted to or reside in a facility described in subdivision (a) utilizing secured perimeters:

(1) The person shall have a developmental disability as defined in Section 4512 of the Welfare and Institutions Code.

(2) The person shall be receiving services and case management from a regional center under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

(3) (A) The person shall be 14 years of age or older, except as specified in subparagraph (B).

HANDBOOK CONTINUES

80001 DEFINITIONS (Continued) **80001**

HANDBOOK CONTINUES

(B) Notwithstanding subparagraph (A), a child who is at least 10 years of age and less than 14 years of age may be placed in a licensed group home described in subdivision (a) using secured perimeters only if both of the following occur:

(i) A comprehensive assessment is conducted and an individual program plan meeting is convened to determine the services and supports needed for the child to receive services in a less restrictive, unlocked residential setting in California, and the regional center requests assistance from the State Department of Developmental Services' statewide specialized resource service to identify options to serve the child in a less restrictive, unlocked residential setting in California.

(ii) The regional center requests placement of the child in a licensed group home described in subdivision (a) using secured perimeters on the basis that the placement is necessary to prevent out-of-state placement or placement in a more restrictive, locked residential setting such as a developmental center, institution for mental disease or psychiatric facility, and the State Department of Developmental Services approves the request.

(4) The person is not a foster child under the jurisdiction of the juvenile court pursuant to Section 300, 450, 601, or 602 of the Welfare and Institutions Code.

(5) (A) An interdisciplinary team, through the individual program plan (IPP) process pursuant to Section 4646.5 of the Welfare and Institutions Code, shall have determined the person lacks hazard awareness or impulse control and, for his or her safety and security, requires the level of supervision afforded by a facility equipped with secured perimeters, and, but for this placement, the person would be at risk of admission to, or would have no option but to remain in, a more restrictive placement. The individual program planning team shall convene every 90 days after admission to determine and document the continued appropriateness of the current placement and progress in implementing the transition plan.

HANDBOOK CONTINUES

80001 DEFINITIONS (Continued) **80001**

HANDBOOK CONTINUES

(B) The clients' rights advocate for the regional center shall be notified of the proposed admission and the individual program plan meeting and may participate in the individual program plan meeting unless the consumer objects on his or her own behalf.

(j) For the purpose of using secured perimeters, the licensee shall not be required to obtain a waiver or exception to a regulation that would otherwise prohibit the locking of a perimeter fence or gate.

HANDBOOK ENDS HERE

(3) "Serious Deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health or safety of the clients of a community care facility.

(4) "Simplified Exemption" means an exemption granted on the Department's own motion, as authorized in Health and Safety Code Section 1522(c)(4), if the individual's criminal history meets specific criteria established by Department regulation.

HANDBOOK BEGINS HERE

(A) See Section 80051 and other applicable sections in Chapters 2, 4 through 7, and Chapter 9, for examples of violations which commonly result in serious deficiencies.

HANDBOOK ENDS HERE

(5) "Small Family Home" means any residential facility in the licensee's family residence providing 24-hour a day care for six or fewer children who are mentally disordered, developmentally disabled or physically handicapped and who require special care and supervision as a result of such disabilities.

(6) "Social Worker" means a person who has a graduate degree from an accredited school of social work.

(7) "SSI/SSP" means the Supplemental Security Income/State Supplemental Program which is a federal/state program that provides financial assistance to aged, blind and/or disabled residents of California.

80001 DEFINITIONS (Continued) **80001**

(8) "Substantial Compliance" means the absence of any serious deficiencies.

(9) "Substantiated Complaint" means a complaint which has been investigated by the licensing agency, and as a result, a violation of regulations has been found.

(t) (1) "Transfer Trauma" means the consequences of the stress and emotional shock caused by an abrupt, involuntary relocation of a client or resident from one facility to another.

(u) (1) "Universal Precautions" means an approach to infection control that treats all human blood and body fluids as if they are infectious. Generally, Universal Precautions consist of regular hand-washing after coming into contact with another person's body fluids (mucous, saliva, urine, etc.) and includes the use of gloves when handling blood or body fluids that contain blood. Specifically, Universal Precautions consist of the following four basic infection guidelines:

(A) Hand-washing - Staff should wash their hands:

1. After assisting with incontinent care or wiping a client's nose.
2. Before preparing or eating foods.
3. After using the toilet.
4. Before and after treating or bandaging a cut.
5. After wiping down surfaces, cleaning spills, or any other housekeeping.
6. After being in contact with any body fluids from another person.
7. Even if they wore gloves during contact with body fluids.

(B) Gloves - Staff should always wear gloves:

1. When they come into contact with blood or body fluids that contain blood.
2. When they have cuts or scratches on their hands.
3. When assisting with incontinent care or when cleaning up urine, stool, or vomit.
4. When administering first aid for a cut, a bleeding wound, or a bloody nose.
5. And use gloves only one time, for one incident or client.
    a. Staff must air dry their hands prior to putting on a new pair of gloves.
6. And dispose of used gloves immediately after use.

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80001 DEFINITIONS (Continued) **80001**

(C) Cleaning with a disinfectant - Staff should clean with a disinfectant:

1. On all surfaces and in the client's room and on an "as needed" basis on any surface that has come into contact with blood.

2. Such as a basic bleach solution, made fresh daily by mixing:

a. 1/4 cup household liquid chlorine bleach in one gallon of tap water, or one tablespoon bleach in one quart of water.

(D) Proper disposal of infectious materials - Staff should dispose of infectious materials by:

1. Placing it in a plastic trash bag, tying it with a secure tie, and disposing of it out of reach of clients and children.

(2) "Unlicensed Community Care Facility" means a facility as defined in Health and Safety Code Section 1503.5.

HANDBOOK BEGINS HERE

(A) Health and Safety Code Section 1503.5 provides:

A facility shall be deemed to be an "unlicensed community care facility" and "maintained and operated to provide nonmedical care" if it is unlicensed and not exempt from licensure and any one of the following conditions is satisfied:

(1) The facility is providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(2) The facility is held out as or represented as providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(3) The facility accepts or retains residents who demonstrate the need for care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(4) The facility represents itself as a licensed community care facility.

HANDBOOK ENDS HERE

80001 DEFINITIONS (Continued) **80001**

(B) A facility which is "providing care and supervision" as defined in Section 80001c.(2) includes, but is not limited to, one in which an individual has been placed by a placement agency or family members for temporary or permanent care.

(C) A facility which is "held out as or represented as providing care or supervision" includes, but is not limited to:

(1) A facility whose license has been revoked or denied, but the individual continues to provide care for the same or different clients with similar needs.

(2) A facility where a change of ownership has occurred and the same clients are retained.

(3) A licensed facility that moves to a new location.

(4) A facility which advertises as providing care and/or supervision.

(D) A facility which "accepts or retains residents who demonstrate the need for care or supervision" includes, but is not limited to:

(1) A facility with residents requiring care and/or supervision, even though the facility is providing board and room only, or board only, or room only.

(2) A facility which houses unemancipated minors, even though the facility is providing board and room only, or board only, or room only.

(3) A facility where it is apparent that care and/or supervision are being provided by virtue of the client's needs being met.

(3) "Urgent Need" means a situation where prohibiting the operation of the facility would be detrimental to a client's physical health, mental health, safety, or welfare. Circumstances constituting urgent need include but are not limited to the following:

(A) A change in facility location when clients are in need of services from the same operator at the new location.

(B) A change of facility ownership when clients are in need of services from a new operator.

80001 DEFINITIONS (Continued) **80001**

(v) (Reserved)

(w) (1) "Waiver" means a nontransferable written authorization issued by the licensing agency to use alternative means which meet the intent of a specific regulation and which are based on a facility-wide need or circumstance.

(2) Repealed by Manual Letter No. 98-05, effective 10/1/98.

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

NOTE: Authority cited: Sections 1502, 1522.41(j), 1524(e), 1530, 1530.9 and 1531.15, Health and Safety Code. Reference: Sections 1501, 1502, 1502(a)(8), 1502.5, 1503, 1503.5, 1505, 1507, 1508, 1509, 1511, 1520, 1522, 1524, 1524(e), 1525, 1525.5, 1526, 1527, 1530, 1530.5, 1531, 1531.1, 1531.15, 1533, 1534, 1536.1, 1537, 1538.5, 1550, 1551, 1556, 1569.699(a), 1797.196, and 11834.02, Health and Safety Code; Sections 11006.9, 17736(a), 17736(b) and 15610.67, Welfare and Institutions Code; 29 CFR 1910.1030; and Joint Stipulation and Order for Settlement in the matter of *California Association of Mental Health Patients' Rights Advocates v. Cliff Allenby, et al*., Santa Clara County Superior Court, No. 106-CV061397, issued November 14, 2008.

Article 2. LICENSE

80005 LICENSE REQUIRED 80005

(a) Unless a facility is exempt from licensure as specified in Section 80007, no adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity shall operate, establish, manage, conduct or maintain a community care facility, or hold out, advertise or represent by any means to do so, without first obtaining a current valid license from the licensing agency.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1505, 1508, 1509, 1513 and 1531, Health and Safety Code.

80006 OPERATION WITHOUT A LICENSE 80006

(a) An unlicensed facility as defined in Section 80001u.(2), is in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code unless exempted from licensure pursuant to Section 80007.

(b) If the facility is alleged to be in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code, the licensing agency shall conduct a site visit and/or evaluation of the facility pursuant to Health and Safety Code Section 1538.

HANDBOOK BEGINS HERE

(1) Health and Safety Code Section 1538(c) provides in part:

> Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint, except where a visit would adversely affect the licensing investigation or the investigation of other agencies. In either event, the complainant shall be promptly informed of the state department's proposed course of action.

HANDBOOK ENDS HERE

(c) If the facility is operating without a license, the licensing agency shall issue a notice of operation in violation of law and shall refer the case for criminal prosecution and/or civil proceedings.

(d) The licensing agency shall have the authority to issue an immediate civil penalty pursuant to Section 80058 and Section 1547 of the Health and Safety Code.

80006 OPERATION WITHOUT A LICENSE (Continued) **80006**

HANDBOOK BEGINS HERE

(1) Section 1547 of the Health and Safety Code provides in part:

Notwithstanding any other provision of this chapter, any person who violates Section 1503.5 or 1508, or both, may be assessed by the department an immediate civil penalty in the amount of two hundred dollars ($200) per day of violation.

The civil penalty shall be imposed if an unlicensed facility is operated and the operator refuses to seek licensure or the licensure application is denied and the operator continues to operate the unlicensed facility.

HANDBOOK ENDS HERE

(e) Sections 80006(c) and (d) shall be applied pursuant to Section 1549 of the Health and Safety Code.

HANDBOOK BEGINS HERE

(1) Section 1549 of the Health and Safety Code states:

The civil, criminal, and administrative remedies available to the department pursuant to this article are not exclusive, and may be sought and employed in any combination deemed advisable by the department to enforce this chapter.

HANDBOOK ENDS HERE

(f) The licensing agency shall notify the appropriate placement or protective service agency if either of the following conditions exist:

(1) There is an immediate threat to the clients' health and safety.

(2) The facility does not submit an application for licensure within 15 calendar days of being served a Notice of operation in violation of law.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1503.5, 1505, 1508, 1533, 1538, 1540, 1540.1, 1541, 1547 and 1549, Health and Safety Code.

80007 EXEMPTION FROM LICENSURE 80007

(a) The community care facility regulations contained in this division shall not apply to any of the following:

(1) Any health facility, as defined by Section 1250 of the Health and Safety Code.

(2) Any clinic, as defined by Section 1202 of the Health and Safety Code.

(3) Any family day care home providing care for the children of only one family, in addition to the operator's own children.

(4) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(5) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

(6) Any school dormitory or similar facility where all of the following conditions exist:

(A) The school is certificated/registered by the State Department of Education.

(B) The school and the school dormitory are on the same grounds.

(C) All children accepted by the school are six years of age or older.

(D) The program operates only during normal school terms unless the academic program runs year-around.

(E) The school's function is educational only.

(F) The school program is not designated as providing rehabilitative or treatment services.

(G) The school's function does not promote intent to provide community care services, and the facility does not accept children who are in need of such services, including but not limited to children with developmental disabilities, mental disorders or physical handicaps; juveniles declared dependents of the court under Welfare and Institutions Code Section 300, and juveniles declared wards of the court under Welfare and Institutions Code Section 601 and 602.

80007 EXEMPTION FROM LICENSURE (Continued) **80007**

(H) The facility does not receive any public funds designated for care including but not limited to AFDC-FC and SSI/SSP. The facility shall be permitted to receive public funds intended for educational programs.

(I) No public or private agency, including but not limited to county welfare department and probation offices, provides social services to children in the facility.

(7) Any house, institution, hotel, homeless shelter, or other similar place that supplies board and room only, or room only, or board only, which provides no element of care and supervision, as defined in Section 80001c.(2).

(8) Any cooperative arrangement between parents for the day care of their children by one or more of the parents where no payment for the day care is involved, including but not limited to the exchange of child day care services between two or more families.

(9) Any care and supervision of persons by a relative, guardian or conservator.

(10) Any care and supervision of persons from only one family by a close friend of the parent, guardian or conservator, provided that such arrangement is not for financial profit and does not exceed 10 hours per week.

(A) Provision of longer hours of care shall not be precluded when provided for a brief period of time for reasons, including but not limited to family emergencies, vacation, and military leave.

(11) Any arrangement for the care and supervision of an adult or adults from only one close friend, who is not a licensee or current employee of a Residential Care Facility for the Elderly or of an Adult Residential Facility, and whose friendship pre-existed a provider/recipient relationship, and all of the following are met:

(A) The care and supervision is provided in a home or residence chosen by the recipient, regardless of who owns the home or residence.

(B) The arrangement is not of a business nature, in that the provider does not represent himself or herself as being in the business of provision of care, and any compensation that may be paid to the provider is only for the value of the services rendered.

(C) The arrangement occurs and continues only as long as the needs for care and supervision of the recipient are being adequately met.

(12) Any facility exclusively used by a licensed homefinding agency and issued a certificate of approval by the agency.

80007 EXEMPTION FROM LICENSURE (Continued) **80007**

(A) Such facilities shall not be required to obtain a license, but shall be in compliance with all other requirements set forth in this division. The facility's compliance with requirements shall be monitored through and assured by the homefinding finding agency. For the purposes of this section, an exclusive-use facility shall mean a nonlicensed residential facility that has been certified by a licensed homefinding agency as conforming to the regulations pertaining to the small family home category. A facility in the exclusive use of a licensed homefinding agency shall accept only those children placed by that agency which certified the home.

(13) A home which meets all of the following criteria:

(A) approved by a licensed adoption agency, or the Department, for the adoptive placement of a child, and

(B) the child is legally free for adoption, and

(C) the agency or the Department is providing supervision of the placement pending finalization of the adoption.

HANDBOOK BEGINS HERE

Being exempt from licensure does not preclude a home from being licensed.

HANDBOOK ENDS HERE

(14) A home which meets all of the following criteria:

(A) placement for adoption by a birth parent, and

(B) a petition for adoption has been filed by the prospective adoptive parents, and is pending, and

(C) a final decision on the petition has not been rendered by the court.

HANDBOOK BEGINS HERE

Being exempt from licensure does not preclude a home from being licensed.

HANDBOOK ENDS HERE

(15) Any placement agency as defined in Health and Safety Code Section 1536.1 or an individual who places individuals for care in a facility licensed to receive and care for such persons.

(16) A county probation or welfare department which places children in certified license pending homes as set forth in Section 87007.1.

80007 EXEMPTION FROM LICENSURE (Continued) **80007**

(17) Any housing project for elderly or disabled individuals that meets federal requirements specified in Health and Safety Code Section 1505(p).

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(A) Health and Safety Code Section 1505(p) provides:

"Any housing for elderly or disabled persons, or both, that is approved and operated pursuant to Section 202 of Public Law 86-372 (12 U.S.C.A. Sec. 1701q), or Section 811 of Public Law 101-625 (42 U.S.C.A. Sec 8013), or whose mortgage is insured pursuant to Section 236 of Public Law 90-448 (12 U.S.C.A. Sec. 1715z), or that receives mortgage assistance pursuant to Section 221d(3) of Public Law 87-70 (12 U.S.C.A. Sec.17151), where supportive services are made available to residents at their option, as long as the project owner or operator does not contract for or provide the supportive services. The project owner or operator may coordinate, or help residents gain access to, the supportive services, either directly, or through a service coordinator. (Note: Health and Safety Code Section 1505(p) incorrectly cites Section 202 of Public Law 86-372 (12 U.S.C.A Section 1701*g*). (Emphasis added). the correct citation, as cited in this Handbook, is Section 1701*q*). (Emphasis added)."

HANDBOOK ENDS HERE

(18) The Department.

(19) Any similar facility as determined by the Director.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1505, 1508, 1530, 1530.5, and 1536.1, Health and Safety Code; and Sections 362, 727 and 16100, Welfare and Institutions Code, Grimes v. CDSS (1999) 70 Cal.App.4th 1065.

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80008 LICENSING OF INTEGRAL FACILITIES 80008

(a) Upon written application from the licensee, the licensing agency shall have the authority to issue a single license for separate buildings which might otherwise require separate licenses provided that all of the following requirements are met:

(1) Separate buildings or portions of the facility are integral components of a single program.

(2) All components of the program are managed by the same licensee.

(3) All components of the program are conducted at a single site with a common address.

(b) If (a) above does not apply, each separately licensed component of a single program shall be capable of independently meeting the provisions of applicable regulations as determined by the licensing agency.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1508, 1509 and 1513, Health and Safety Code.

80010 LIMITATIONS ON CAPACITY AND AMBULATORY STATUS 80010

(a) A licensee shall not operate a facility beyond the conditions and limitations specified on the license, including the capacity limitation.

(b) Facilities or rooms approved for ambulatory clients only shall not be used by nonambulatory clients.

(1) Clients whose condition becomes nonambulatory shall not use rooms or areas restricted to ambulatory clients.

(2) The licensing agency shall have the authority to require clients who use ambulatory sections of the facility to demonstrate that they are ambulatory.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1528 and 1531, Health and Safety Code.

80011 ADVERTISEMENTS AND LICENSE NUMBER 80011

(a) Licensees shall reveal each facility license number in all advertisements in accordance with Health and Safety Code Section 1514. Non-residential facilities shall be exempt from this requirement.

HANDBOOK BEGINS HERE

(1) Health and Safety Code, Section 1514 provides:

(a) Each residential care facility licensed under this chapter shall reveal its license number in all advertisements, publications, or announcements made with the intent to attract clients or residents.

(b) Advertisements, publications, or announcements subject to the requirements of subdivision (a) shall include, but are not limited to, those contained in the following:

(1) Newspaper or magazine.

(2) Consumer report.

(3) Announcement of intent to commence business.

HANDBOOK CONTINUES

80011 ADVERTISEMENTS AND LICENSE NUMBER (Continued) **80011**

HANDBOOK CONTINUES

(4) Telephone directory yellow pages.

(5) Professional or service directory.

(6) Radio or television commercial.

HANDBOOK ENDS HERE

(b) Correspondence shall be considered a form of advertisement if the intent is to attract clients.

(c) Licensees who operate more than one facility and use a common advertisement for these facilities shall be required to list each facility license number in accordance with Health and Safety Code Section 1514.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Section 1514, Health and Safety Code.

80012 FALSE CLAIMS **80012**

(a) No licensee, officer, or employee of a licensee shall make or disseminate any false or misleading statement regarding the facility or any of the services provided by the facility.

(b) No licensee, officer, or employee of a licensee shall alter a license, or disseminate an altered license.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1508 and 1531, Health and Safety Code.

Article 3. APPLICATION PROCEDURES

80017 NONDISCRIMINATION OF APPLICANTS 80017

(a) Any adult shall be permitted to apply for a license regardless of age, sex, race, religion, color, political affiliation, national origin, disability, marital status, actual or perceived sexual orientation, gender identity, HIV status or ancestry.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1520, Health and Safety Code; Section 16013, Welfare and Institutions Code.

80018 APPLICATION FOR LICENSE 80018

(a) Any adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity desiring to obtain a license shall file with the licensing agency a verified application on forms furnished by the licensing agency.

(b) Prior to filing an application, the applicant shall attend an orientation designed for the specific facility type and provided by the licensing agency.

(1) The orientation shall cover, but not be limited to, the following areas:

(A) Completion of the application for license.

(B) Scope of operation subject to regulation by the department.

(2) An applicant, who is already licensed for a facility in the same category, shall not be required to attend an orientation if the last orientation attended was for the same facility type and within two (2) years of the next scheduled orientation.

(3) An applicant applying for more than one facility license, in the same facility type, shall be required to attend only one orientation.

(c) The applicant/licensee shall cooperate with the licensing agency in providing verification and/or documentation as requested by the licensing agency.

(d) The application and supporting documents shall contain the following:

(1) Name or proposed name and address of facility.

(2) Name, and residence and mailing addresses of applicant.

(A) If the applicant is a partnership, the name, and principal business address of each partner.

(B) If the applicant is a corporation or association, the name, title and principal business address of each officer, executive director and member of the governing board.

80018 APPLICATION FOR LICENSE (Continued) **80018**

(C) If the applicant is a corporation which issues stock, the name and address of each person owning more than 10 percent of stock in such corporation.

(D) If the applicant is a corporation or association, a copy of the articles of incorporation, constitution and bylaws.

(E) If the applicant is a corporation, each member of the board of director, executive director, and any officer shall list the name of facilities which they have been licensed to operate, employed by or a member of the board of the directors, executive director or an officer.

(3) Name and address of owner of facility premises if applicant is leasing or renting.

(4) Procedures as required pursuant to Section 1524.5 of the Health and Safety Code.

HANDBOOK BEGINS HERE

(A) Health and Safety Code Section 1524.5 provides:

(a) In addition to any other requirements of this chapter, any community care facility providing residential care for six or fewer persons at which the owner does not reside shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints. This procedure shall include a method of assuring that the owner, licensee, or person designated by the owner or licensee, is notified of the incident, that the owner, licensee, or person designated by the owner or licensee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a response of action taken or a reason why no action needs to be taken.

(b) In order to assure the opportunity for complaints to be made directly to the owner, licensee, or person designated by the owner or licensee, and to provide the opportunity for the owner, licensee, or person designated by the owner or licensee to meet residents and learn of problems in the neighborhood, any facility with a nonresident owner shall establish a fixed time on a weekly basis when the owner, licensee or person designated by the owner or licensee will be present.

(c) Facilities with nonresident owners shall establish procedures to comply with the requirements of this section on or before July 1, 1987.

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80018 APPLICATION FOR LICENSE (Continued) **80018**

(5) The category of facility to be operated.

(6) Maximum number of persons to be served.

(7) Age range, sex and the categories of persons to be served, including but not limited to persons with developmental disabilities, mental disorders, physically handicapped and/or nonambulatory persons.

(8) Hours or periods of facility operation.

(9) Name of administrator, if applicable.

(10) Information required by Health and Safety Code Section 1520(d).

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(A) Health and Safety Code Section 1520(d) provides:

Disclosure of the applicant's prior or present service as an administrator, general partner, corporate officer or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in any community care facility or in any facility licensed pursuant to Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250).

HANDBOOK ENDS HERE

(11) Information required by Health and Safety Code Section 1520(e).

HANDBOOK BEGINS HERE

(A) Information regarding any revocation or temporary suspension action taken or in the process of being taken against a license held or previously held by the applicant or while the applicant served in any of the capacities specified in (9) above.

HANDBOOK ENDS HERE

(12) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction in the area where the facility is located.

(13) A plan of operation as specified in Section 80022.

80018 APPLICATION FOR LICENSE (Continued) **80018**

(14) Fingerprint cards as specified in Section 80019.

(15) Information required by Health and Safety Code Section 1522.1.

HANDBOOK BEGINS HERE

(A) Prior to granting a license to, or otherwise approving, any individual to care for children, the department shall check the Child Abuse Registry pursuant to paragraph (3) of subdivision (b) of Section 11170 of the Penal Code. The department shall investigate any reports received from the Child Abuse Registry. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency which investigated the child abuse report. The department shall not deny a license based upon a report from the Child Abuse Registry unless child abuse is substantiated.

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(16) The bonding affidavit specified in Section 80025(a).

(17) A health screening report on the applicant as specified in Section 80065(g).

(18) The fee for processing the application by the requested capacity as specified in Section 80036.

(19) Such other information as may be required pursuant to Section 1520(g) of the Health and Safety Code.

HANDBOOK BEGINS HERE

(A) Health and Safety Code Section 1520(g) provides:

Any other information which may be required by the department for the proper administration and enforcement of this chapter.

HANDBOOK ENDS HERE

(e) The application shall be signed by the applicant.

(1) If the applicant is a partnership, the application shall be signed by each partner.

(2) If the applicant is a firm, association, corporation, county, city, public agency or other governmental entity, the application shall be signed by the chief executive officer or authorized representative.

80018 APPLICATION FOR LICENSE (Continued) **80018**

(f) The application shall be filed with the licensing agency which serves the geographical area in which the facility is located.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1520, 1520.11, 1522, 1522.1, 1523.1, 1524.5, and 1560, Health and Safety Code.

80019 CRIMINAL RECORD CLEARANCE **80019**

(a) The Department shall conduct a criminal record review of all individuals specified in Health and Safety Code Section 1522(b) and shall have the authority to approve or deny a facility license, or employment, residence, or presence in the facility, based upon the results of such review.

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(1) Section 1522(a) of the Health and Safety Code provides in part:

Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the state department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of, or, after having been arrested and released on bail or on his or her own recognizance, is currently awaiting trial for, a crime other than a minor traffic violation, or arrested for any crime specified in Section 290 of the Penal Code or arrested for violating Section 245, 273.5 subdivision (b) of Section 273a, or prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated. That criminal history information shall include the full criminal record, if any, of those persons. No fee shall be charged by the Department of Justice or the state department for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the applicant pursuant to this section. If it is found that the applicant, or any other person specified in subdivision (b), has been convicted of, or is awaiting trial for, a crime, other than a minor traffic violation, the Department of Justice shall notify the State Department of Social Services of the fact and the application shall be denied unless the director grants an exemption pursuant to subdivision (f). If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the California Department of Social Services with a statement of that fact.

HANDBOOK CONTINUES

80019 CRIMINAL RECORD CLEARANCE (Continued) **80019**

HANDBOOK CONTINUES

(2) Section 1522(b) of the Health and Safety Code provides in part:

In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

(A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a client, residing in the facility.

(C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of 1338.5 or 1736.6, respectively, who is not employed, retained or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who fall under this exemption shall provide one copy of his or her current certification, prior to providing care, to the adult community care facility. Nothing in this paragraph restricts the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed community care facility pursuant to Section 1558.

(D) Any staff person, volunteer, or employee who has contact with the clients.

(E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(F) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

HANDBOOK ENDS HERE

80019 CRIMINAL RECORD CLEARANCE (Continued) **80019**

(b) The following persons are exempt from the requirement to submit fingerprints:

(1) A medical professional, as defined by the Department in regulations, who holds a valid license or certification from the individual's governing California medical care regulatory entity and who is not employed, retained, or contracted by the licensee, if all of the following apply:

(A) The criminal record of the individual has been cleared as a condition of licensure or certification by the individual's California medical care regulatory entity.

(B) The individual is providing time-limited specialized clinical care or services.

(C) The individual is providing care or services within the individual's scope of practice.

(D) The individual is not a community care facility licensee or an employee of the facility.

(2) A third-party repair person, or similar retained contractor, if all of the following apply:

(A) The individual is hired for a defined, time-limited job.

(B) The individual is not left alone with clients.

(C) When clients are present in the room in which the repairperson or contractor is working, a staff person who has a criminal record clearance or exemption is also present.

(3) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract with a client of the facility, and are in the facility at the request of that client or resident’s legal decision maker.

(A) The exemption shall not apply to a person who is a community care facility licensee or an employee of the facility.

80019 CRIMINAL RECORD CLEARANCE (Continued) **80019**

(4) Clergy and other spiritual caregivers who are performing services in common areas of the residential care facility, or who are advising an individual client at the request of, or with the permission of, the client.

(A) This exemption shall not apply to a person who is a community care facility licensee or an employee of the facility.

(5) Members of fraternal, service and similar organizations who conduct group activities for clients, if all of the following apply:

(A) Members are not left alone with the clients.

(B) Members do not transport clients off the facility premises.

(C) The same group does not conduct such activities more often than once a month.

(6) The following persons in homes certified by licensed Foster Family Agencies:

(A) Adult friends and family of the certified foster parent, who come into the home to visit for a length of time no longer than one month, provided they are not left alone with the foster children. However, the certified foster parent, acting as a reasonable and prudent parent, as defined in paragraph (2) of subdivision (a) of Section 362.04 of the Welfare and Institutions Code, may allow his or her adult friends and family to provide short-term care to the foster child and act as an appropriate occasional short-term babysitter for the child.

(B) Parents of a foster child's friends when the child is visiting the friend's home and the friend, certified foster parent or both are also present, However, the certified foster parent, acting as a reasonable and prudent parent, may allow the parent of the foster child's friends to act as an appropriate short-term babysitter for the child without the friend being present.

(C) Individuals who are engaged by any certified foster parent to provide short-term babysitting to the child for periods not to exceed 24 hours. Certified foster parents shall use a reasonable and prudent parent standard in selecting appropriate individuals to act as appropriate occasional short-term babysitters.

80019 CRIMINAL RECORD CLEARANCE (Continued) **80019**

(7) The following persons in small family homes:

(A) Adult friends and family of the licensee who come into the home to visit, for a length of time no longer than one month, provided they are not left alone with the children.

(B) Parents of a child's friends when the child is visiting the friend's home and the friend, foster parent or both are also present.

(8) The following persons in adult residential facilities unless contraindicated by the client's individualized program plan (IPP), or needs and service plan:

(A) A spouse, significant other, relative, or close friend of a client., or the attendant or facilitator who is not employed, retained or contracted by the licensee for a client with a developmental disability, as long as the person is visiting the resident or providing direct care and supervision to that client only.

(B) An attendant or facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained or contracted by the licensee.

(C) The exemptions in Section 80019(b)(9)(A) or (B) apply only if the person is visiting the client or providing direct care and supervision to the client.

(9) Nothing in this paragraph shall prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.

80019 CRIMINAL RECORD CLEARANCE (Continued) **80019**

(c) Prior to the Department issuing a license, the applicant, administrator and any adult other than a client, residing in the facility shall obtain a California criminal record clearance or exemption as specified in Health and Safety Code section 1522(a)(4).

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(1) Health and Safety Code Section 1522(a)(4) provides in part:

An applicant and any other person specified in subdivision (b) of the Health and Safety Code Section 1522 shall submit a second set of fingerprints to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation, in addition to the criminal records search required by this subdivision. If an applicant and all other persons described in subdivision (b) of Health and Safety Code Section 1522 meet all of the conditions for licensure, except the receipt of the Federal Bureau of Investigation's criminal history information for the applicant or any of the persons described in subdivision (b) of Health and Safety Code Section 1522, the Department may issue a license if the applicant and each person described in subdivision (b) of Health and Safety Code Section 1522 has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction, as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the Department determines that the licensee or person described in subdivision (b) of Health and Safety Code Section 1522 has a criminal record, the license may be revoked pursuant to Health and Safety Code Section 1550. The Department may also suspend the license pending as administrative hearing pursuant to Health and Safety Code Section 1550.5.

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(d) All individuals subject to criminal record review shall be fingerprinted and sign a Criminal Record Statement (LIC 508 [Rev. 1/03]) under penalty of perjury.

(1) A person signing the LIC 508 must:

(A) Declare whether he/she has been convicted of a crime, other than a minor traffic violation as specified in Section 80019(i) regardless of whether the individual was granted a pardon for the conviction, received an expungement pursuant to Penal Code 1203.4 or the individual's record was sealed as a result of a court order.

80019 CRIMINAL RECORD CLEARANCE (Continued) **80019**

(B) If convicted of a crime other than a minor traffic violation, provide information regarding the conviction.

(2) The licensee shall submit these fingerprints to the California Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or to comply with the requirements of Section 80019(e), prior to the individual's employment, residence, or initial presence in the community care facility.

(A) Fingerprints shall be submitted to the California Department of Justice by the licensee, or sent by electronic transmission to the California Department of Justice by a fingerprinting entity approved by the Department.

(e) All individuals subject to a criminal record review pursuant to Health and Safety Code Section 1522 shall prior to working, residing or volunteering in a licensed facility:

(1) Submit a valid mailing address at which the individual shall receive communications from the Department.

(A) An individual who holds a criminal record clearance or exemption shall maintain a current and valid mailing address with the Department and shall notify the Department within ten (10) days of any change in mailing address.

(2) Obtain a California clearance or a criminal record exemption as required by the Department or

(3) Request a transfer of a criminal record clearance as specified in Section 80019(f) or

(4) Request and be approved for a transfer of a criminal record exemption, as specified in Section 80019.1(r), unless, upon request for the transfer, the Department permits the individual to be employed, reside or be present at the facility.

(f) A licensee or applicant for a license may request a transfer of a criminal record clearance from one state licensed facility to another, or from TrustLine to a state licensed facility by providing the following documents to the Department:

(1) A signed Criminal Background Clearance Transfer Request, LIC 9182 (Rev. 4/02).

(2) A copy of the individual's:

(A) Driver's license, or

(B) Valid identification card issued by the Department of Motor Vehicles, or

(C) Valid photo identification issued by another state or the United States government if the individual is not a California resident.

80019 CRIMINAL RECORD CLEARANCE (Continued) **80019**

(3) Any other documentation required by the Department [e.g., Criminal Record Statement - LIC 508, (Rev. 1/03) or for Foster Family Homes, Small Family Homes and Certified Family Homes an LIC 508D (Rev. 1/03) which are incorporated by reference, and job description].

HANDBOOK BEGINS HERE

(4) Health and Safety Code Section 1522(h) provides:

(A) The California Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearances to be transferred.

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(g) Violation of Section 80019(e) will result in an immediate assessment of a civil penalties of one hundred dollars ($100) per violation per day for a maximum of 5 days by the Department.

(1) Subsequent violations within a twelve (12) month period will result in a civil penalty of one hundred dollars ($100) per violation per day for a maximum of thirty (30) days.

(2) The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1548.

(h) Violation of Section 80019(e) may result in a denial of the license application or suspension and/or revocation of the license.

(i) If the criminal record transcript of any of the individuals specified in Health and Safety Code Section 1522(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation for which the fine was less than $300, and an exemption pursuant to Section 80019.1(a) has not been granted, the Department shall take the following actions:

(1) For initial applicants, denial of the application.

(2) For current licensees, the Department may institute an administrative action, including, but not limited to, revocation of the license.

(3) For current employees, exclude the affected individual pursuant to Health and Safety Code Section 1558, and deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.

(4) For convicted individuals residing in the facility, exclusion of the affected individual pursuant to Health and Safety Code Section 1558, and denial of the application or revocation of the license, if the individual continues to provide services and/or reside at the facility.

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80019 CRIMINAL RECORD CLEARANCE (Continued) **80019**

(j) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of employees in the individual's personnel file as required in Section 80066.

(1) Documentation shall be available for inspection by the Department.

(k) The Department may seek verification from a law enforcement agency or court of an individual's criminal record as reported to the Department from any member of the public or affected individual.

(1) Upon obtaining confirmation from a law enforcement agency or court of the offense, the Department shall proceed as if this criminal record information was provided by the California Department of Justice.

(l) An individual with arrest history described in Health and Safety Code section 1522(e) shall be notified of the following:

(1) The fact of the investigation into conduct associated with arrest information regarding the subject.

(2) The specific arrest(s) upon which the investigation is based.

(3) The date of the arrest(s).

(4) The arresting agency.

(5) The disposition of the arrest(s), if available, as indicated on criminal history information received from Department of Justice.

(6) The subject of the notice shall not work or reside in a licensed facility until the subject has received a criminal record clearance or exemption.

(7) If the Department obtains evidence through the investigation that the subject may pose a risk to the health and safety of any person who is or may become a client, the Department may deny a criminal record clearance and/or exclude the subject.

(8) The subject of the notice may provide written information the subject believes is relevant to the investigation and/or shows the subject is qualified to work in a licensed facility.

(9) The subject of the notice will be notified of the Department’s decision regarding whether or not to grant a clearance and of the right to appeal any such decision at that time.

80019 CRIMINAL RECORD CLEARANCE (Continued) **80019**

(m) The Department shall, in cases where the subject does not have a conviction, within 5 business days of a decision to deny a criminal record clearance based on an investigation described in subdivision (l) notify the subject of the following:

(1) The Department has completed its investigation into arrest information.

(2) The Department will not grant the subject a criminal record clearance.

(3) The decision, if not appealed, will bar the subject from presence in a licensed facility.

(4) The arrest information which triggered the investigation, including the date of arrest, charges, and arresting agency.

(5) The Department has determined that the subject may pose a risk to the health and safety of a person who is or may become a client.

(6) The specific conduct upon which the decision is based.

(7) The subject has a right to contest the decision and will receive an Accusation from the Legal Division as well as information about how to request an administrative hearing.

(n) For initial applications where the subject does not have a conviction, the Accusation described in paragraph (7) of subdivision (m) shall be filed within 40 days of a decision to deny a criminal record clearance.

NOTE: Authority cited: Section 1530 and 1548(e), Health and Safety Code. Reference: Section 11505, Government Code; Sections 1503.5, 1505, 1508, 1522, 1531 1533, 1538, 1540, 1540.1, 1541, 1547, 1548 and 1549, Health and Safety Code.

80019.1 CRIMINAL RECORD EXEMPTION 80019.1

(a) The Department will notify a licensee to act immediately to remove from the facility or bar from entering the facility any person described in Sections 80019.1(a)(1) through (5) below while the Department considers granting or denying an exemption. Upon notification, the licensee shall comply with the notice.

(1) Any person who has been convicted of, or is awaiting trial for, a sex offense against a minor;

(2) Any person who has been convicted of a felony;

(3) Any person who has been convicted of an offense specified in Sections 243.4, 273a, 273d, 273g, or 368 of the Penal Code or any other crime specified in Health and Safety Code Section 1522(c)(3);

(4) Any person who has been convicted of any crime specified below:

(A) Battery

(B) Shooting at Inhabited Dwelling

(C) Corporal Injury on Spouse/Cohabitant

(D) Discharging Firearm with Gross Negligence

(E) Exhibiting Weapon/Firearm

(F) Threat to Commit a Crime Resulting in Gross Bodily Injury or Death

(G) Criminal Threat to Harm or Injure Another Person

(H) Cruelty to Animals

(I) Willful Harm or Injury to Child; or

(5) Any other person ordered to be removed by the Department.

(b) In addition to the requirements of Section 80019.1(a), the licensee must return the confirmation of removal form that is sent by the Department, within five (5) days of the date of the form, that confirms under penalty of perjury that the individual has been removed from the facility.

80019.1 CRIMINAL RECORD EXEMPTION (Continued)

(1) Confirmation must be made on either a Removal Confirmation – Exemption Needed, LIC 300A (Rev. 9/03), Removal Confirmation - Denial, LIC 300B (Rev. 9/03), Removal Confirmation - Rescinded, LIC 300C (Rev. 9/03), or Removal Confirmation – Nonexemptible, LIC 300D (Rev. 9/03).

(c) After a review of the criminal record transcript, the Department may grant an exemption if:

(1) The applicant/licensee requests an exemption in writing for himself or herself, or

(2) The applicant/licensee requests an exemption in writing for an individual associated with the facility, or

(3) The applicant/licensee chooses not to seek an exemption on the affected individual's behalf, the affected individual requests an individual exemption in writing, and

(4) The affected individual presents substantial and convincing evidence satisfactory to the Department that he/she has been rehabilitated and presently is of such good character as to justify being issued or maintaining a license, employment, presence, or residence in a licensed facility.

(d) To request a criminal record exemption, a licensee or license applicant must submit information that indicates that the individual meets the requirements of Section 80019.1(c)(4). The Department will notify the licensee or license applicant and the affected individual, in concurrent, separate notices, that the affected individual has a criminal conviction and needs to obtain a criminal record exemption.

(1) The notice to the affected individual shall include a list of the conviction(s) that the Department is aware of at the time the notice is sent that must be addressed in an exemption request.

(2) The notice will list the information that must be submitted to request a criminal record exemption.

(3) The information must be submitted within forty five (45) calendar days of the date of the Department's notice.

(A) Individuals who submit a criminal record exemption request shall cooperate with the Department by providing any information requested by the Department, including, but not limited to, certified court documents to process the exemption request, pursuant to Section 80019.1(e).

(B) If the individual for whom the criminal record exemption is requested is an employee or resident other than a spouse or a dependent family member and the licensee/license applicant does not submit the information listed in the Department’s written notice within 45 calendar days of the date of the notice, the Department may cease processing the exemption request and close the case.

80019.1 CRIMINAL RECORD EXEMPTION (Continued)

(C) If the individual for whom the criminal record exemption is requested is an applicant, licensee, spouse or dependent family member and the licensee/license applicant does not submit the information listed in the Department's written notice within 45 calendar days of the date of the notice, the Department may deny the exemption request.

(D) Individuals may request a criminal record exemption on their own behalf if the licensee or license applicant:

1. Chooses not to request the exemption and

2. Chooses not to employ or terminates the individual's employment after receiving notice of the individual's criminal history, or

3. Removes the individual who resides in the facility after receiving notice of the individual's criminal history.

(e) The Department shall consider factors including, but not limited to, the following as evidence of good character and rehabilitation:

(1) The nature of the crime including, but not limited to, whether it involved violence or a threat of violence to others.

(2) Period of time since the crime was committed and number of offenses.

(3) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.

(4) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.

(5) Granting by the Governor of a full and unconditional pardon.

(6) Character references.

(A) All character references shall be on a Reference Request form (LIC 301E – Exemptions [Rev. 7/03]).

(7) A certificate of rehabilitation from a superior court.

(8) Evidence of honesty and truthfulness as revealed in exemption application documents.

80019.1 CRIMINAL RECORD EXEMPTION (Continued) **80019.1**

(A) Documents include, but are not limited to:

1. A Criminal Record Statement (LIC 508, [Rev. 1/03]) or for Foster Family Homes, Small Family Homes and Certified Family Homes an LIC 508D [Rev. 1/03]) and

2. The individual's written statement/explanation of the conviction and the circumstances about the arrest.

(9) Evidence of honesty and truthfulness as revealed in exemption application interviews and conversations with the Department.

(f) The Department shall also consider the following factors in evaluating a request for an exemption:

(1) Facility and type of association.

(2) The individual's age at the time the crime was committed.

80019.1 CRIMINAL RECORD EXEMPTION (Continued) **80019.1**

(g) The Department may deny an exemption request if:

(1) The licensee and/or the affected individual fails to provide documents requested by the Department, or

(2) The licensee and/or the affected individual fails to cooperate with the Department in the exemption process.

(h) The reasons for any exemption granted or denied shall be in writing and kept by the Department.

(1) Exemption denial notices shall specify the reason the exemption was denied.

(i) The Department has the authority to grant a criminal record exemption that places conditions on the individual's continued licensure, and employment or presence in a licensed facility.

(j) It shall be conclusive evidence that the individual is not of such good character as to justify issuance of an exemption if the individual:

(1) Makes a knowingly false or misleading statement regarding:

(A) Material relevant to their application for a criminal record clearance or exemption,

(B) His or her criminal record clearance or exemption status to obtain employment or permission to be present in a licensed facility, after the Department has ordered that they be excluded from any or all licensed facilities, or

(C) His or her criminal record clearance or exemption status in order to obtain a position with duties that are prohibited to him/her by a conditional exemption; or

(2) Is on probation or parole.

(A) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the Department may, in its discretion, grant a criminal record exemption notwithstanding Section 80019.1(j)(2).

(B) Section 80019.1(j)(2) does not apply to Certified Family Homes.

80019.1 CRIMINAL RECORD EXEMPTION (Continued) **80019.1**

(k) The Department shall consider granting a criminal record exemption if the individual's criminal history meets all of the applicable criteria specified in Sections 80019.1(k)(1) through (6) and the individual provides the Department with substantial and convincing evidence of good character as specified in Section 80019.1(c)(4). For purposes of this section, a violent crime is a crime that, upon evaluation of the code section violated or the reports regarding the underlying offense, presents a risk of harm or violence.

(1) The individual has been convicted of one nonviolent misdemeanor, and one year has lapsed since completing the most recent period of incarceration or probation.

(2) The individual has been convicted of two or more nonviolent misdemeanors and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(3) The individual has been convicted of one or more violent misdemeanors and 15 consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(4) The individual has been convicted of one nonviolent felony and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(5) The individual has been convicted of two or more nonviolent felonies and ten consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(6) The individual has not been convicted of a violent felony.

(7) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the period of lapsed time required in Sections 80019.1(k)(1) through (5) above shall begin from the last date of conviction(s).

(l) It shall be a rebuttable presumption that an individual is not of such good character as to justify the issuance of an exemption if the individual fails to meet the requirements specified in Sections 80019.1(k)(1) through (6).

(m) The Department shall not grant an exemption if the individual has a conviction for any offense specified in Section 1522(g)(1) of the Health and Safety Code.

80019.1 CRIMINAL RECORD EXEMPTION (Continued) **80019.1**

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Health and Safety Code Section 1522(g)(1) provides that no exemption shall be granted if an individual has been convicted of any of the following offenses:

(1) Penal Code Sections 136.1 and 186.22 – Gang related/Intimidation of witnesses or victims.

(2) Penal Code Sections 187, 190 through 190.4 and 192(a) – Any murder/Attempted murder/Voluntary manslaughter.

(3) Penal Code Section 203 – Any mayhem.

(4) Penal Code Section 206 - Felony torture.

(5) Penal Code Sections 207, 208, 209, 209.5, 210 – Kidnapping.

(6) Penal Code Sections 211, 212.5, 213, 214 – Any robbery.

(7) Penal Code Section 215 – Carjacking.

(8) Penal Code Section 220 – Assault with intent to commit mayhem, rape, sodomy or oral copulation.

(9) Penal Code Section 243.4 – Sexual battery.

(10) Penal Code Section 261(a), (a)(1), (2), (3), (4) or (6) – Rape.

(11) Penal Code Section 262(a)(1) or (4) – Rape of a spouse.

(12) Penal Code Section 264.1 – Rape in concert.

(13) Penal Code Section 266 – Enticing a minor into prostitution.

(14) Penal Code Section 266c – Induce to sexual intercourse, etc. by fear or consent through fraud.

(15) Penal Code Section 266h(b) – Pimping a minor.

(16) Penal Code Section 266i(b) – Pandering a minor.

HANDBOOK CONTINUES

80019.1 CRIMINAL RECORD EXEMPTION (Continued) **80019.1**

HANDBOOK CONTINUES

(17) Penal Code Section 266j – Providing a minor under 16 for lewd or lascivious act.

(18) Penal Code Section 267 – Abduction for prostitution.

(19) Penal Code Section 269 – Aggravated assault of a child.

(20) Penal Code Section 272 – Contributing to the delinquency of a minor (must involve lewd or lascivious conduct).

(21) Penal Code Section 273a(a) [or 273a(1) if the conviction was prior to January 1, 1994] – Willfully causing or permitting any child to suffer under circumstances or conditions likely to produce great bodily harm or death.

(22) Penal Code Section 273d – Willfully inflicting any cruel or inhuman corporal punishment or injury on a child.

(23) Penal Code Section 285 – Incest.

(24) Penal Code Section 286 – Sodomy.

(25) Penal Code Section 288 – Lewd or lascivious act upon a child under 14.

(26) Penal Code Section 288a – Oral copulation.

(27) Penal Code Section 288.2 – Felony conviction for distributing lewd material to children.

(28) Penal Code Section 288.5(a) – Continuous sexual abuse of a child.

(29) Penal Code Section 289 – Genital or anal penetration or abuse by any foreign or unknown object.

(30) Penal Code Section 290(a) – All crimes for which one must register as a sex offender including attempts and not guilty by insanity.

(31) Penal Code Section 311.2(b), (c) or (d) – Transporting or distributing child-related pornography.

(32) Penal Code Section 311.3 – Sexual exploitation of a child.

HANDBOOK CONTINUES

80019.1 CRIMINAL RECORD EXEMPTION (Continued)

HANDBOOK CONTINUES

(33) Penal Code Section 311.4 – Using a minor to assist in making or distributing child pornography.

(34) Penal Code Section 311.10 – Advertising or distributing child pornography.

(35) Penal Code Section 311.11 – Possessing child pornography.

(36) Penal Code Section 314 paragraphs 1 or 2 – Lewd or obscene exposure of private parts.

(37) Penal Code Section 347(a) – Poisoning or adulterating food, drink, medicine, pharmaceutical products, spring, well, reservoir or public water supply.

(38) Penal Code Section 368 – Elder or dependent adult abuse.

(39) Penal Code Section 417(b) – Drawing, exhibiting or using a loaded firearm.

(40) Penal Code Section 451(a) or (b) – Arson.

(41) Penal Code Section 460(a) – First degree burglary if it is charged and proved that a non-accomplice was present in the residence during the burglary.

(42) Penal Code Sections 186.22 and 518 – Gang related/Extortion.

(43) Penal Code Section 647.6 or prior to 1988 former Section 647a – Annoy or molest a child under 18.

(44) Penal Code Section 653f(c) – Solicit another to commit rape, sodomy, etc.

(45) Penal Code Sections 664/187 – Any attempted murder.

(46) * Penal Code Section 667.5(c)(7) – Any felony punishable by death or imprisonment in the state prison for life.

(47) * Penal Code Section 667.5(c)(8) – Enhancement for any felony which inflicts great bodily injury.

HANDBOOK CONTINUES

80019.1 CRIMINAL RECORD EXEMPTION (Continued)

HANDBOOK CONTINUES

(48) Penal Code Section 667.5(c)(13) – Enhancement for violation of Penal Code Section 12308, 12309 or 12310 – Exploding or igniting or attempting to explode or ignite any destructive device or explosive with intent to commit murder.

(49) Penal Code Section 667.5(c)(14) - Any kidnapping – Penal Code Sections 207, 208, 209, 209.5 and 210.

(50) Penal Code Section 667.5(c)(22) - Any violation of Penal Code Section 12022.53 – Enhancement for listed felonies where use of a firearm.

(51) Penal Code Section 667.5(c)(23) – Use of weapon of mass destruction.

(52) Business and Professions Code Section 729 – Felony sexual exploitation by a physician, psychotherapist, counselor, etc.

***** See Health and Safety Code Section 1522(g)(1) for exception.

HANDBOOK ENDS HERE

(n) The Department shall consider granting a simplified criminal record exemption only if the individual has the criminal history profile outlined in Sections 80019.1(n)(1) through (4) below:

(1) The individual does not have a demonstrated pattern of criminal activity;

(2) The individual has one or more convictions arising from a single incident of criminal conduct;

(3) Each conviction is a misdemeanor and is for a crime that is nonviolent and does not pose a risk of harm to an individual; and

(4) It has been at least five consecutive years since the date of conviction.

(o) At the Department's discretion, an individual who is otherwise eligible for a simplified exemption may be required to go through the standard exemption process if the Department determines such action will help to protect the health and safety of clients.

(p) If the Department denies or cannot grant a criminal record exemption the Department shall:

(1) For initial applicants, deny the application.

80019.1 CRIMINAL RECORD EXEMPTION (Continued) **80019.1**

(2) For current licensees, the Department may institute an administrative action, including, but not limited to, revocation of the license.

(3) For current employees, exclude the affected individual pursuant to Health and Safety Code Section 1558, deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.

(4) For individuals residing in the facility or the licensee, exclude the affected individual pursuant to Health and Safety Code Section 1558, deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.

(q) If a request for an exemption has been denied, the individual shall be excluded for a period of two years unless the individual has been convicted of a crime for which no exemption may be granted pursuant to Section 80019.1(m). If a request for an exemption has been denied based on a conviction of a crime for which no exemption may be granted, the individual shall be excluded for the remainder of the individual's life.

(1) If the Department determines during the review of an exemption request, that the individual was denied an exemption for a conviction of a crime for which an exemption may be granted within the preceding two years, the Department shall cease any further review of the request until two years have elapsed from the date of the denial. In cases where the individual requested a hearing on an exemption denial, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department upholding the denial. In cases where the individual submitted a petition for reinstatement or reduction in penalty pursuant to Government Code Section 11522 that was denied, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department denying the petition.

(2) An exclusion order based solely upon a denied exemption shall remain in effect and the individual shall not be employed in or present in a licensed facility or certified home, unless either a petition or an exemption is granted.

(3) If an individual who has previously been denied an exemption re-applies after the relevant time period described in Section 80019.1(q)(1) above, the Department may, according to the provisions in Section 80019.1 et seq., grant or deny the subsequent request for an exemption.

80019.1 CRIMINAL RECORD EXEMPTION (Continued) **80019.1**

(4) If an individual submits a petition pursuant to Government Code Section 11522 for reinstatement or reduction of penalty for an exclusion, an individual must submit his/her fingerprints through an electronic fingerprinting system approved by the Department and submit to the Department a statement of the reason why the individual should be permitted to work or be present in a facility, along with all information required of an individual requesting a criminal record exemption as provided in Section 80019.1. If it is determined, based upon information provided by the Department of Justice, that the individual has been convicted of a crime for which no exemption may be granted, the petition shall be denied. An individual's failure to submit fingerprints or other information as requested by the Department, shall be grounds for denial of the petition. The burden shall be on the petitioner to prove sufficient rehabilitation and good character to justify the granting of the petition.

(r) A licensee or applicant for a license may request a transfer of a criminal record exemption from one state licensed facility to another by providing the following documents to the Department:

(1) A signed Criminal Record Exemption Transfer Request, LIC 9188 (Rev. 9/03).

(2) A copy of the individual's:

(A) Driver's license, or

(B) Valid identification card issued by the Department of Motor Vehicles, or

(C) Valid photo identification issued by another state or the United States Government if the individual is not a California resident.

(3) Any other documentation required by the Department (e.g., Criminal Record Statement - LIC 508, [Rev.1/03] or for Foster Family Homes, Small Family Homes and Certified Family Homes an LIC 508D [Rev. 1/03] and job description).

(s) The Department may consider factors including, but not limited to, the following in determining whether or not to approve an exemption transfer:

(1) The basis on which the Department granted the exemption;

(2) The nature and frequency of client contact in the new position;

(3) The category of facility where the individual wishes to transfer;

(4) The type of clients in the facility where the individual wishes to transfer;

80019.1 CRIMINAL RECORD EXEMPTION (Continued) **80019.1**

(5) Whether the exemption was appropriately evaluated and granted in accordance with existing exemption laws or regulations; or

(6) Whether the exemption meets current exemption laws or regulations.

(t) If the Department denies the individual's request to transfer a criminal record exemption, the Department shall provide the individual and the licensee with written notification that states the Department's decision and informs the affected individual of their right to an administrative hearing to contest the Department's decision.

(u) At the Department's discretion, an exemption may be rescinded if it is determined that:

(1) The exemption was granted in error, or

(2) The exemption does not meet current exemption laws or regulations, or

(3) The conviction for which an exemption was granted subsequently becomes non-exemptible by law.

(v) The Department may rescind an individual's criminal record exemption if the Department obtains evidence showing that the individual engaged in conduct that is inconsistent with the good character requirement of a criminal record exemption, as evidenced by factors including, but not limited to, the following:

(1) Violations of licensing laws or regulations;

(2) Any conduct by the individual that indicates that the individual may pose a risk to the health and safety of any individual who is or may be a client;

(3) Nondisclosure of a conviction or evidence of lack of rehabilitation that the individual failed to disclose to the Department, even if it occurred before the exemption was issued; or

(4) The individual is convicted of a subsequent crime.

(w) If the Department rescinds an exemption the Department shall:

(1) Notify the licensee and the affected individual in writing; and

(2) Initiate an administrative action.

80019.1 CRIMINAL RECORD EXEMPTION (Continued) **80019.1**

(x) If the Department learns that an individual with a criminal record clearance or exemption has been convicted of a subsequent crime, the Department, at its sole discretion, may immediately initiate an administrative action to protect the health and safety of clients.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1522 and 1531, Health and Safety Code, and Gresher v. Anderson (2005) 127 Cal. App. 4th 88.

80019.2 CHILD ABUSE CENTRAL INDEX **80019.2**

(a) Prior to issuing a license to care for children, the Department shall conduct a Child Abuse Central Index (CACI) review pursuant to Health and Safety Code Section 1522.1 and Penal Code Section 11170(b)(3). The Department shall check the CACI for the applicant(s), and all individuals subject to a criminal record review, pursuant to Health and Safety Code Section 1522(b) and shall approve or deny a facility license, employment, residence or presence in the facility based on the results of the review.

(1) The applicant shall submit the Child Abuse Central Index check (LIC 198A [3/99] which is incorporated by reference, for state licensed facilities and LIC 198 [4/99] which is incorporated by reference, for county licensed facilities) for all individuals required to be checked, directly to the California Department of Justice at the same time that the individual's fingerprints are submitted for a criminal background check as required by Section 80019(c).

(A) Individuals who have submitted the Child Abuse Central Index check (LIC 198A) with fingerprints on or after January 1, 1999 need not submit a new check if the individual can transfer their criminal record clearance or exemption pursuant to Section 80091(e) or Section 80019.1(f).

80019.2 CHILD ABUSE CENTRAL INDEX (Continued) **80019.2**

(2) The Department shall investigate any reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protection agency that investigated the child abuse report. The Department shall not deny a license based upon a report from the CACI unless the Department substantiates the allegation of child abuse.

(b) Subsequent to licensure, all individuals subject to a criminal record review, pursuant to Health and Safety Code Section 1522(b), shall complete a Child Abuse Central Index check (LIC 198A [3/99]), prior to employment, residence or initial presence in the facility that cares for children.

(1) The licensee shall submit the Child Abuse Central Index checks (LIC 198A [3/99]), directly to the California Department of Justice at the same time that the individual's fingerprints are submitted for a criminal background check as required by Section 80019(d).

(A) Individuals who have submitted the Child Abuse Central Index check (LIC 198A) with fingerprints on or after January 1, 1999 need not submit a new check if the individual can transfer their criminal record clearance or exemption pursuant to Section 80019(e) or Section 80019.1(f).

(2) The Department shall check the CACI pursuant to Penal Code Section 11170(b)(3), and shall investigate any reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not deny a license or take any other administrative action based upon a report from the CACI unless the Department substantiates the allegation of child abuse.

(3) The Department shall investigate any subsequent reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not revoke a license or take any other administrative action based upon a report from the CACI unless the Department substantiates the allegation of child abuse.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1521, 1522, 1522.04, 1531, and 14564, Health and Safety Code.

80020 FIRE CLEARANCE 80020

(a) All facilities shall secure and maintain a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal.

(1) The request for fire clearance shall be made through and maintained by the licensing agency.

(2) Prior to the use of secured perimeters, an applicant or licensee for an Adult Residential Facility or Group Home shall meet the fire clearance approval requirements of Title 17, Division 2, Chapter 3, Subchapter 4, Article 12, Section 56072(d) and (h).

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California Code of Regulations, Title 17, Section 56072 provides in pertinent part:

(d) The request for fire clearance for the use of the secured perimeter shall be made through the DSS CCLD. The DSS CCLD approval shall be contingent on a fire clearance being obtained for the specific use of the secured perimeter.

(h) The DSS CCLD approval is immediately terminated by operation of law upon any suspension or revocation of the fire clearance approval specific to the use of the secured perimeter, or upon the Department of Developmental Services' withdrawal of its approval of the secured perimeter component of the licensee's or applicant's plan of operation.

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(b) The applicant shall notify the licensing agency if the facility plans to admit any of the following categories of clients so that an appropriate fire clearance, approved by the city or county, fire department, the district providing fire protection services, or the State Fire Marshal, can be obtained prior to the acceptance of such clients:

(1) Persons 65 years of age and over.

(2) Persons who are nonambulatory, as defined in Section 80001n.(1).

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(A) Persons who use postural supports pursuant to Section 80072(a)(8) are nonambulatory.

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(c) A licensee of an Adult Residential Facility or Group Home utilizing secured perimeters shall conduct fire and earthquake drills pursuant to Health and Safety Code section 1531.15(h).

80020 FIRE CLEARANCE (Continued) **80020**

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Health and Safety Code section 1531.15 provides in pertinent part:

(h) Emergency fire and earthquake drills shall be conducted on each shift in accordance with existing licensing requirements, and shall include all facility staff providing resident care and supervision on each shift.

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NOTE: Authority cited: Sections 1530 and 1531.15, Health and Safety Code. Reference: Sections 1501, 1520, 1528, and 1531 and 1531.15, Health and Safety Code.

80021 WATER SUPPLY CLEARANCE **80021**

(a) All community care facilities where water for human consumption is from a private source shall meet the following requirements:

(1) As a condition of initial licensure, the applicant shall provide evidence of an on-site inspection of the source of the water and a bacteriological analysis which establishes the safety of the water, conducted by the local health department, the State Department of Health Services or a licensed commercial laboratory.

(2) Subsequent to initial licensure, the licensee shall provide evidence of a bacteriological analysis of the private water supply as frequently as is necessary to ensure the safety of the clients, but no less frequently than specified in the following table:

LICENSED CAPACITY	ANALYSIS REQUIRED	PERIODIC SUBSEQUENT ANALYSIS
6 or fewer	Initial Licensing	Not required unless evidence supports the need for such analysis to protect clients.
7 through 15	Initial Licensing	Annually
16 through 24	Initial Licensing	Semiannually
25 or more	Initial Licensing	Quarterly

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1520, 1528 and 1531, Health and Safety Code.

80022 PLAN OF OPERATION 80022

(a) Each licensee shall have and maintain on file a current, written, definitive plan of operation.

(b) The plan and related materials shall contain the following:

(1) Statement of purposes, and program methods and goals.

(2) Statement of admission policies and procedures regarding acceptance of clients.

(3) A copy of the admission agreement.

(4) Administrative organization, if applicable.

(5) Staffing plan, qualifications and duties, if applicable.

(6) Plan for inservice education of staff if required by regulations governing the specific facility category.

(7) A sketch of the building(s) to be occupied, including a floor plan which describes the capacities of the buildings for the uses intended, room dimensions, and a designation of the rooms to be used for nonambulatory clients, if any.

(8) A sketch of the grounds showing buildings, driveways, fences, storage areas, pools, gardens, recreation areas and other space used by the clients.

(A) The sketch shall include the dimensions of all areas which will be used by the clients.

(9) Sample menus and a schedule for one calendar week indicating the time of day that meals and snacks are to be served.

(10) Transportation arrangements for clients who do not have independent arrangements.

(11) Rate setting policy including, but not limited to, policy on refunds.

(12) A statement whether or not the licensee will handle the clients' money, personal property, and/or valuables. If money, personal property, and/or valuables will be handled, the method for safeguarding shall ensure compliance with Sections 80025 and 80026.

(13) Consultant and community resources to be utilized by the facility as part of its program.

80022 PLAN OF OPERATION (Continued)

(14) A statement of the facility's policy concerning family visits and other communications with the client pursuant to Health and Safety Code Section 1512.

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(A) Section 1512 of the Health and Safety Code provides that:

This policy shall be designed to encourage regular family involvement with the client and shall provide ample opportunities for family participation in activities at the facility.

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(c) If the licensee of an ARF, group home (GH), small family home (SFH), foster family home (FFH) or certified family home (CFH) certified by a foster family agency (FFA) plans to use delayed egress devices as specified in Health and Safety Code Section 1531.1(d), the plan must meet the requirements of Health and Safety Code Sections 1531.1(g) and (h).

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Health and Safety Code Sections 1531.1(g) and (h) are paraphrased in pertinent part:

(g) The facility shall develop a plan of operation approved by the State Department of Social Services that includes a description of how the facility is to be equipped with egress control devices that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143 of the Health and Safety Code.

(h) The plan shall include, but shall not be limited to, all of the following:

(1) A description of how the facility will provide training for staff regarding the use and operation of the egress control devices utilized by the facility.

(2) A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code.

(3) A description of how the facility will manage the person's lack of hazard awareness and impulse control behavior.

(4) A description of the facility's emergency evacuation procedures.

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80022 PLAN OF OPERATION (Continued)

(d) If the licensee intends to admit or care for one or more clients who have a restricted health condition specified in Section 80092, the facility policies and a program description shall be included. At a minimum, the information related to those clients and their needs shall specify all of the following:

(1) The type of restricted health condition that the licensee plans to admit.

(2) The licensee's plans for serving that client.

(A) Except for an ARF, if the licensee plans to admit or care for one or more clients who have a staph or other serious, communicable infection, the plan must include:

1. A statement that all staff will receive training in universal precautions within the first 10 days of employment, and before providing care to these clients.

2. A statement of how the licensee will ensure that the training is obtained, and the name and qualifications of the person or organization that will provide the training.

(3) The services that will be provided.

(4) Staffing adjustments if needed in order to provide the proposed services.

(A) This may include increased staffing, hiring staff with additional or different qualifications, utilizing licensed professionals as consultants, or hiring licensed professionals.

(5) Repealed by Manual Letter No. CCL-98-05, effective 10/1/98.

(e) If the licensee intends to admit or care for one or more clients who rely upon others to perform all activities of daily living, the plan of operation must also include a statement that demonstrates the licensee's ability to care for these clients. The evidence or ability may include, but not be limited to:

(1) The licensee's experience in providing care to these clients.

(2) The licensee's experience providing care to a family member with this condition.

(3) The licensee's plan to hire staff who have experience providing care to these clients, and documentation of what the staff person's experience has been.

(4) Documentation of training the licensee and/or staff have completed specific to the needs of these clients.

(5) History of continued placements by a Regional Center.

80022 PLAN OF OPERATION (Continued)

(f) If the licensee intends to admit and/or specialize in care for one or more clients who have a propensity for behaviors that result in harm to self or others, the facility plan of operation shall include a description of precautions that will be taken to protect that client and all other clients.

(g) Prior to the use of secured perimeters, the applicant or licensee of a Group Home or Adult Residential Facility shall provide the information required by Health and Safety Code Section 1531.15(f) and California Code of Regulations Title 17, Division 2, Chapter 3, Subchapter 4, Article 12, Section 56070, in the plan of operation.

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Health and Safety Code section 1531.15 provides in pertinent part:

(f) The licensee shall revise its facility plan of operation. These revisions shall first be approved by the State Department of Developmental Services. The plan of operation shall not be approved by the State Department of Social Services unless the licensee provides certification that the plan was approved by the State Department of Developmental Services. The plan shall include, but not be limited to, all of the following:

(1) A description of how the facility is to be equipped with secured perimeters that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143.6.

(2) A description of how the facility will provide training for staff.

(3) A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code, and any applicable personal rights provided in Title 22 of the California Code of Regulations.

(4) A description of how the facility will manage residents' lack of hazard awareness and impulse control behavior, which shall emphasize positive behavioral supports and techniques that are alternatives to physical, chemical, or mechanical restraints, or seclusion.

(5) A description of the facility's emergency evacuation procedures.

(6) A description of how the facility will comply with applicable health and safety standards.

HANDBOOK CONTINUES

80022 PLAN OF OPERATION (Continued)

HANDBOOK CONTINUES

California Code of Regulations, Title 17, Section 56070 provides in pertinent part:

(a) In addition to the requirements of Title 22, California Code of Regulations, Section 80022, the plan of operation shall include the following information for the use of secured perimeters:

(1) Documentation provided by the regional center of the local need for the facility to utilize a secured perimeter.

(2) A component describing the following:

(A) An explanation of how interior and exterior space is to be made available on the facility premises to permit consumers to move freely and safely.

(B) Staff qualifications and staff training curricula, including participation by the local regional center and the clients' rights advocate providing advocacy services pursuant to Section 4433 of the Welfare and Institutions Code.

(C) An explanation of how the facility licensee will ensure the protection of consumers' personal rights, including those specified in Chapter 1 of Division 4.5 of the Welfare and Institutions Code, and any applicable personal rights provided in Titles 17 and 22 of the California Code of Regulations.

(D) The licensee's or applicant's plan for managing consumers' lack of hazard awareness and impulse control behavior.

(E) Procedures to inform consumers that they have the right to leave the facility and procedures to be followed if a consumer indicates a desire to leave the facility, including the use of redirection or, if the consumer indicates a continued desire to leave following redirection, procedures for staff accompaniment and supervision, and for ensuring adequate staffing for the remaining residents.

HANDBOOK CONTINUES

80022 PLAN OF OPERATION (Continued)

HANDBOOK CONTINUES

(F) Procedures to be used for conducting and documenting fire and earthquake drills at least once every 3 months that include all facility staff providing the consumer care and supervision.

(G) The facility's emergency evacuation procedure. The procedure shall include the protocol for consumers moving through and beyond the secured perimeters when needed for their safety.

(H) In the case of an existing facility with delayed egress devices seeking to add secured perimeters, a plan for relocating current facility consumers who have not been determined to meet the admissions and continued placement requirements for residential facilities utilizing secured perimeters as set forth in Section 56073 and Health and Safety Code Section 1531.15.

(b) In addition to any other required training, the licensee or applicant shall provide 16 hours of training for each direct care staff, prior to staff being left alone with clients, which shall include at least the following:

(1) The personal rights of facility residents, including rights related to utilizing secured perimeters and delayed egress devices.

(2) Behavior management techniques of consumers lacking hazard awareness and impulse control.

(3) Emergency procedures in the event of a medical emergency or facility disaster.

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(h) Prior to the use of secured perimeters, applicants or licensees of Group Homes and Adult Residential Facilities seeking to utilize secured perimeters pursuant to Health and Safety Code section 1531.15 shall submit the Department of Developmental Service's written approval and the approved component of the applicant's or licensee's plan of operation to the Department as specified in the California Code of Regulations, Title 17, Chapter 3, Subchapter 4, Article 12, Sections 56072(c).

80022 PLAN OF OPERATION (Continued)

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California Code of Regulation, Title 17, Section 56072 provides in pertinent part:

(c) Upon receiving written approval from the Department of Developmental Services of the proposed secured perimeter component of the facility plan of operation, the licensee or applicant shall submit the written approval and the approved component of the licensee's or applicant's plan of operation to the Department of Social Services, Community Care Licensing Division (DSS CCLD) for approval or denial.

HANDBOOK ENDS HERE

(i) Prior to the use of secured perimeters, the applicant or licensee of a Group Home or Adult Residential Facility shall obtain the Department's written determination of its approval or denial of the proposed secured perimeter component of the plan of operation as specified in the California Code of Regulations, Title 17, Chapter 3, Subchapter 4, Article 12, 56072(e) and (f).

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California Code of Regulation, Title 17, Section 56072 provides in pertinent part:

(e) The DSS CCLD shall review the licensee's or applicant's licensing history, if any, as a residential service provider licensed by the DSS CCLD and shall be authorized to require additional documentation if needed to verify the licensee's or applicant's ability to protect the health and safety of consumers.

(f) The DSS CCLD shall provide to the applicant or licensee a written determination of its approval or denial of the proposed secured perimeter component of the plan of operation.

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(j) Any changes in the plan of operation which affect the services to clients shall be subject to licensing agency approval and shall be reported as specified in Section 80061.

(k) The facility shall operate in accordance with the terms specified in the plan of operation and may be cited for not doing so.

NOTE: Authority cited: Section 1530 and 1531.15, Health and Safety Code. Reference: Sections 1501, 1507, 1512, 1520, 1531, 1531.1 and 1531.15, Health and Safety Code.

80023 DISASTER AND MASS CASUALTY PLAN 80023

(a) Each licensee shall have and maintain on file a current, written disaster and mass casualty plan of action.

(b) The plan shall be subject to review by the licensing agency and shall include:

(1) Designation of administrative authority and staff assignments.

(2) Contingency plans for action during fires, floods, and earthquakes, including but not limited to the following:

(A) Means of exiting.

(B) Transportation arrangements.

(C) Relocation sites which are equipped to provide safe temporary accommodation for clients.

(D) Arrangements for supervision of clients during evacuation or relocation, and for contact after relocation to ensure that relocation has been completed as planned.

(E) Means of contacting local agencies, including but not limited to the fire department, law enforcement agencies, and civil defense and other disaster authorities.

(c) The licensee shall instruct all clients, age and abilities permitting, all staff, and/or members of the household in their duties and responsibilities under the plan.

(d) Disaster drills shall be conducted at least every six months.

(1) Completion of such drills shall not require travel away from the facility grounds or contact with local disaster agencies.

(2) The drills shall be documented and the documentation maintained in the facility for at least one year.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1520, 1528 and 1531, Health and Safety Code.

80024 WAIVERS AND EXCEPTIONS 80024

(a) Unless prior written licensing agency approval is received as specified in (b) below, all licensees shall maintain continuous compliance with the licensing regulations.

(b) The licensing agency shall have the authority to approve the use of alternate concepts, programs, services, procedures, techniques, equipment, space, personnel qualifications or staffing ratios, or the contact of experimental or demonstration projects under the following circumstances:

(1) Such alternatives shall be carried out with provisions for safe and adequate services, and shall in no instance be deterimental to the health and safety of any facility client.

(2) The applicant or licensee shall submit to the licensing agency a written request for a waiver or exception, together with substantiating evidence supporting the request.

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(3) In determining the merits of each request, the licensing agency shall use as guidelines the standards utilized or recommended by well-recognized state and national organizations, as available or determined appropriate by the licensing agency.

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(4) The licensing agency shall provide written approval or denial of the request.

(c) Within 30 days of receipt of a request for a waiver or an exception, the licensing agency shall notify the applicant or licensee, in writing, of one of the following:

(1) The request with substantiating evidence has been received and accepted for consideration.

(2) The request is deficient, describing additional information required for the request to be acceptable and a time frame for submitting this information.

(A) Failure of the applicant or licensee to comply within the time specified in (2) above shall result in denial of the request.

(d) Within 30 days of receipt of an acceptable request for a waiver or an exception, the licensing agency shall notify the applicant or licensee, in writing, whether the request has been approved or denied.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1509 and 1531, Health and Safety Code; and Section 15376, Government Code.

80025 BONDING 80025

(a) The licensee shall submit an affidavit, on a form provided by the licensing agency, stating whether he/she safeguards or will safeguard cash resources of clients and the maximum amount of cash resources to be safeguarded for all clients or each client in any month.

(b) All licensees, other than governmental entities, who are entrusted to care for and control clients' cash resources shall file or have on file with the licensing agency, a bond issued by a surety company to the State of California as principal.

(c) The amount of the bond shall be according to the following schedule:

AMOUNT SAFEGUARDED PER MONTH	BOND REQUIRED
$750 or less	$1,000
$751 to $1,500	$2,000
$1,501 to $2,500	$3,000

Every further increment of $1,000 or fraction thereof shall require an additional $1,000 on the bond.

(d) The licensee shall submit a new affidavit and bond to the licensing agency prior to the licensee safeguarding amounts of clients' cash resources in excess of the current bond.

(e) Whenever the licensing agency determines that the amount of the bond is insufficient to provide necessary protection of clients' cash resources, or whenever the amount of any bond is impaired by any recovery against the bond, the licensing agency shall have the authority to require the licensee to file an additional bond in such amount as the licensing agency determines to be necessary to protect the clients' cash resources.

(f) The provisions of this section shall not apply if the licensee meets the requirements specified in Section 1560 of the Health and Safety Code.

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(1) Health and Safety Code Section 1560 provides in part:

The provisions of Section 1560 shall not apply if the licensee meets both of the following requirements:

(A) The licensee operates a community care facility which is licensed only to care for children.

(B) The licensee safeguards client monies in amounts less than $50 per client and less than $500 for all clients in any month.

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80025 BONDING (Continued) **80025**

NOTE: Authority cited: Sections 1523, 1524 and 1530, Health and Safety Code. Reference: Sections 1523, 1524, 1560 and 1561, Health and Safety Code.

80026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES **80026**

(a) A licensee shall not be required to accept for admission or continue to care for any client whose incapacities, as documented by the initial or subsequent needs appraisals, would require the licensee to handle such client's cash resources.

(b) If such a client is accepted for or maintained in care, his/her cash resources, personal property, and valuables not handled by a person outside the facility who has been designated by the client or his/her authorized representative shall be handled by the licensee or facility staff, and shall be safeguarded in accordance with the requirements specified in (c) through (n) below.

(c) Except where provided for in approved continuing care agreements, no licensee or employee of a licensee shall:

(1) accept appointment as a guardian or conservator of the person and/or estate of any client;

(2) accept any general or special power of attorney except for Medi-Cal or Medicare claims for any client;

(3) become the substitute payee for any payments made to any client.

(A) This requirement does not apply to a licensee who is appointed by the Social Security Administration as representative payee for the client.

(4) become the joint tenant on any account specified in Section 80026(i) with a resident.

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(A) Provision for appointment of a small family home licensee as the guardian of the person, or estate, or person and estate of a child is contained in Section 83026.

HANDBOOK ENDS HERE

80026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued) **80026**

(d) Cash resources, personal property, and valuables of clients handled by the licensee shall be free from any liability the licensee incurs.

(e) Cash resources, personal property, and valuables of clients shall be separate and intact, and shall not be commingled with facility funds or petty cash.

(1) The above requirement shall not prohibit the licensee from providing advances or loans to clients from facility funds.

(A) Documentation of such transactions shall be maintained in the facility.

(f) The licensee or employee of a licensee shall not make expenditures from clients' cash resources for any basic services in these regulations, or for any basic services identified in a contract/admission agreement between the client and the licensee.

(1) This requirement does not apply to a licensee who is appointed by the Social Security Administration as representative payee for the clients.

(g) The licensee shall not commingle cash resources and valuables of clients with those of another community care facility of a different license number regardless of joint ownership.

(h) Each licensee shall maintain accurate records of accounts of cash resources, personal property, and valuables entrusted to his/her care, including, but not limited to the following:

(1) Records of clients' cash resources maintained as a drawing account, which shall include a current ledger accounting, with columns for income, disbursements and balance, for each client. Supporting receipts for purchases shall be filed in chronological order.

(A) Receipts for cash provided to any client from his/her account(s) shall include the client's full signature or mark, or authorized representative's full signature or mark, and a statement acknowledging receipt of the amount and date received, as follows:

"(full signature of client) accepts (dollar amount) (amount written cursive), this date (date), from (payor)."

(B) The store receipt shall constitute the receipt for purchases made for the client from his/her account.

(C) The original receipt for cash resources, personal property or valuables entrusted to the licensee shall be provided to the client's authorized representative, if any, otherwise to the client.

80026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued) **80026**

(2) Bank records for transactions of cash resources deposited in and drawn from the account specified in (i) below.

(i) Immediately upon admission of a client, all of his/her cash resources entrusted to the licensee and not kept in the licensed facility shall be deposited in any type of bank, savings and loan, or credit union account meeting the following requirements:

(1) The account shall be maintained as a trust account separate from the personal or business accounts of the licensee.

(2) The account title shall clearly note that the account contains client cash resources.

(3) The licensee shall provide access to the cash resources upon demand by the client or his/her authorized representative.

(4) The account shall be maintained in a local bank, savings and loan or credit union authorized to do business in California, the deposits of which are insured by a branch of the Federal Government.

(A) A local public agency shall have the authority to deposit such cash resources with the public treasurer.

(j) Cash resources entrusted to the licensee and kept on the facility premises, shall be kept in a locked and secure location.

(k) Upon discharge of a client, all cash resources, personal property, and valuables of that client which have been entrusted to the licensee shall be surrendered to the client, or his/her authorized representative, if any.

(1) The licensee shall obtain and retain a receipt signed by the client or his/her authorized representative.

(l) Upon the death of a client, all cash resources, personal property and valuables of that client shall immediately be safeguarded in accordance with the following requirements:

(1) All cash resources shall be placed in an account as specified in (i) above.

(2) The executor or the administrator of the estate shall be notified by the licensee of the client's death, and the cash resources, personal property, and valuables shall be surrendered to said party in exchange for a signed, itemized receipt.

80026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued) **80026**

(3) If no executor or administrator has been appointed, the authorized representative, if any, shall be notified by the licensee of the client's death, and the cash resources, personal property, and valuables shall be surrendered to said person in exchange for a signed, itemized receipt.

(4) If the licensee is unable to notify a responsible party as specified in (2) or (3) above, the licensee shall give immediate written notice of the client's death to the public administrator of the county as provided in Section 7600.5 of the California Probate Code.

(m) The following requirements shall be met whenever there is a proposed change of licensee:

(1) The licensee shall notify the licensing agency of any pending change of licensee, and shall provide the licensing agency an accounting of each client's cash resources, personal property and valuables entrusted to his/her care.

(A) Such accounting shall be made on form provided or approved by the licensing agency.

(2) Provided the licensing agency approves the application for the new licensee, the form specified in (1)(A) above shall be updated, signed by both the former and new licensee, and forwarded to the licensing agency.

(n) The licensee shall maintain a record of all monetary gifts and of any other gift exceeding an estimated value of $100, provided by or on behalf of a client to the licensee, administrator or staff.

(1) The record shall be attached to the account(s) specified in (h) above if the client's cash resources, personal property or valuables have been entrusted to the licensee.

(2) Monetary gifts or valuables given by the friends or relatives of a deceased client shall not be subject to the requirement specified in (n) and (n)(1) above.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1531 and 1560, Health and Safety Code; and 20 CFR 416.601.

80027 INITIAL APPLICATION REVIEW 80027

(a) Within 90 days of receipt of the application by the licensing agency, the licensing agency shall give written notice to the applicant of one of the following:

(1) The application is complete.

(2) The application is deficient, describing what documents are outstanding and/or inadequate, and informing the applicant that the information must be submitted within 30 days of the date of the notice.

(A) If the applicant does not submit the required information within the 30 days, the application shall be deemed withdrawn unless either the licensing agency has denied the application or the facility is under construction.

(b) The licensing agency shall cease review of any application under the conditions specified in Section 1520.3 of the Health and Safety Code.

(1) If cessation of review occurs, the application shall be returned to the applicant. It shall be the responsibility of the applicant to request resumption of review as specified in Health and Safety Code Section 1520.3.

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(2) Health and Safety Code Section 1520.3 provides in part::

"(a)(1) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.3 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of such revocation. The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other provision of law.

"...

HANDBOOK CONTINUES

80027 INITIAL APPLICATION REVIEW (Continued) **80027**

HANDBOOK CONTINUES

"(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall cease further review of the application as follows:

"(1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

"(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

"(3) The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions which either have been corrected or are no longer in existence."

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(c) The circumstances and conditions in which the licensing agency may continue to review a previously denied application shall include, but are not limited to, the following:

(1) A fire clearance previously denied, but now approved;

(2) An Administrator who did not meet the minimum qualifications, but now fulfills the qualifications; or

(3) A person with a criminal record, which was the basis for license denial, is no longer associated with the facility.

80027 INITIAL APPLICATION REVIEW (Continued) **80027**

(d) The application review shall not constitute approval of the application.

(f) The application fees shall be nonrefundable as specified in Section 80036(d).

NOTE: Authority cited: Sections 1524, and 1530, Health and Safety Code. Reference: Sections 1520, 1520.3, 1522.1, 1523.1, and 1524, Health and Safety Code; and Section 15376, Government Code.

80028 CAPACITY DETERMINATION 80028

(a) A license shall be issued for a specific capacity.

(b) The number of persons for whom the facility is licensed to provide care and supervision shall be determined on the basis of the application review by the licensing agency, which shall take into consideration the following:

(1) The fire clearance specified in Section 80020.

(2) The licensee's/administrator's ability to comply with applicable law and regulation.

(3) Any other household members, including but not limited to persons under guardianship or conservatorship, who reside at the facility and their individual needs.

(4) Facilities which accept minor parents and his/her child(ren) shall have such children included in the facility's licensed capacity.

(5) Physical features of the facility, including available living space, which are necessary in order to comply with regulations.

(6) Number of available staff to meet the care and supervision needs of the clients.

(7) Any restrictions pertaining to the specific category of facility.

(c) The licensing agency shall be authorized to issue a license for fewer clients than is requested when the licensing agency determines that:

(1) The licensee's responsibilities to other persons in the home, including persons under guardianship and conservatorship, would preclude provision of the care required by these regulations.

(d) When the license is issued for fewer clients than requested, the licensee shall be notified in writing of the reasons for the limitation and of the licensee's rights to appeal the decision as specified in Section 80040.

(e) The licensing agency shall have the authority to decrease existing licensed capacity with the licensee's agreement, when there is a change in any of the factors specified in (b) above.

(1) If the licensee does not agree to the decrease in capacity, the licensing agency shall have the authority to initiate revocation action as specified in Section 80042.

(f) The licensing agency shall be authorized to restrict care to specific individuals.

(1) If care and supervision is limited to specific individuals, the licensing agency shall specify the names of the individuals in a letter to the licensee.

80028 CAPACITY DETERMINATION (Continued) **80028**

(2) Except where the limitation is requested by the licensee, the licensee shall be notified in writing of the reasons for such limitation and of the licensee's right to appeal the decision as specified in Section 80040.

(g) A Group Home or Adult Residential Facility that utilizes secured perimeters shall comply with Health and Safety Code section 1531.15(a).

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Health and Safety Code section 1531.15 provides in pertinent part:

(a) A licensee of an adult residential facility, short-term residential treatment center, or group home for no more than six residents, except for the larger facilities provided for in paragraph (1) of subdivision (k), that is utilizing delayed egress devices pursuant to Section 1531.1, may install and utilize secured perimeters in accordance with the provisions of this section.

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NOTE: Authority cited: Section 1530 and 1531.15, Health and Safety Code and Section 10554, Welfare and Institutions Code. Reference: Section 11465, Welfare and Institutions Code and Sections 1501, 1523, 1524, 1528, 1531 and 1531.15, Health and Safety Code.

80029 WITHDRAWAL OF APPLICATION **80029**

(a) An applicant shall have the right to withdraw an application.

(1) Such withdrawal shall be in writing.

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(A) Health and Safety Code Section 1553 provides in part:

The licensing agency shall not be deprived of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law, or to enter an order denying the license upon any such ground, unless it has consented in writing to such withdrawal.

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(2) The fee for processing the application shall be forfeited.

NOTE: Authority cited: Sections 1530 and 1553, Health and Safety Code. Reference: Sections 1520, 1523.1,1524, and 1553, Health and Safety Code.

80030 PROVISIONAL LICENSE 80030

(a) The licensing agency shall have the authority to issue a provisional license to an applicant, pending action under Sections 80031 or 80040 on a completed application for an initial license, if it determines that all of the following circumstances exist:

(1) The facility is in substantial compliance with applicable law and regulation.

(2) An urgent need for licensure exists.

(3) A corporate applicant's board of directors, executive director and officer are eligible for licensure as specified in Health and Safety Code Section 1520.11(b).

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(A) Health and Safety Code Section 1520.11(b) reads:

"(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, an executive director, or an officer, who is not eligible for licensure pursuant to Section 1520.3 or Section 1558.2."

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(b) The capacity of a provisional license shall be limited to the number of clients for whom urgent need has been established, or the capacity established for the specific facility, whichever is less.

(c) The licensing agency shall have the authority to issue a provisional license for a maximum of six months when it determines that full compliance with licensing regulations will be achieved within that time period.

(d) The licensing agency shall have the authority to issue a provisional license for a maximum of 12 months when it determines, at the time of application, that more than six months is required to achieve full compliance with licensing regulations due to circumstances beyond the control of the applicant.

(e) If, during the provisional license period, the licensing agency discovers any serious deficiencies, the Department shall have the authority to institute administrative action or civil proceedings, or to refer the case for criminal prosecution.

(f) A provisional license shall not be renewable and shall terminate on the date specified on the license, or upon denial of the application, whichever is earlier.

NOTE: Authority cited: Sections 1523, 1530 and 1553, Health and Safety Code. Reference: Sections 1520, 1520.11, 1523, 1524, 1525.5, 1528 and 1553, Health and Safety Code.

80031 ISSUANCE OF LICENSE 80031

(a) Within 90 days of the date that a completed application, as defined in Section 80001c.(8), has been received, the licensing agency shall give written notice to the applicant of one of the following:

(1) The application has been approved.

(2) The application has been denied.

(A) The notice of denial shall include the information specified in Section 80040.

(b) The licensing agency shall notify the applicant, in writing, of the issuance of the license.

(1) Issuance of the license itself shall constitute written notification of license approval.

(c) No limitation shall be imposed on the licensee or printed on the license solely on the basis that a licensee is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

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(1) Whenever possible, the licensee shall not use corporal punishment on his/her own children in the presence of the child(ren) in placement.

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(d) The licensing agency's completed review of an application for the two years immediately preceding this regulation has been approximately:

(1) A minimum of 30 days.

(2) A median of 90 days.

(3) A maximum of 180 days.

NOTE: Authority cited: Sections 1530 and 1553, Health and Safety Code. Reference: Sections 1509, 1520, 1520.5, 1525, 1526, 1531.5 and 1553, Health and Safety Code; and Section 15376, Government Code.

80032 TERMS OF AN INITIAL OR RENEWAL LICENSE 80032

Repealed by CDSS Manual Letter CCL 01-07, effective 6/29/01.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1524, 1525 and 1529, Health and Safety Code.

80033 APPLICATION FOR RENEWAL OF A LICENSE 80033

Repealed by CDSS Manual Letter No. CCL 01-07, effective 6/29/01.

NOTE: Authority cited: Sections 1523 and 1530, Health and Safety Code. Reference: Sections 1520, 1523, 1524, 1525 and 1528, Health and Safety Code.

80034 SUBMISSION OF NEW APPLICATION 80034

(a) A licensee shall file a new application as required by Section 80018 whenever there is a change in conditions or limitations described on the current license, or other changes including but not limited to the following:

(1) Any change in the location of the facility.

(2) Any change of licensee, including but not limited to the following when the licensee is a corporation.

(A) Sale or transfer of the majority of stock.

(B) Separating from a parent company.

(C) Merger with another company.

(3) Any change in facility category.

(4) Any increase in capacity.

(A) The licensing agency shall have the authority to grant capacity increases without resubmission of an application following a licensing agency review and the securing of an appropriate fire clearance.

(5) A permanent change in any client from ambulatory to nonambulatory status.

80034 SUBMISSION OF NEW APPLICATION (Continued) **80034**

(b) A new application as required by Section 80018 shall be filed whenever an applicant fails to complete a new application within the time limit required by Section 80027(a) if the applicant chooses to continue the application process.

(c) Repealed by CDSS Manual Letter No. CCL 01-07, effective 6/29/01.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1520, 1523.1, and 1531, Health and Safety Code.

80035 CONDITIONS FOR FORFEITURE OF A COMMUNITY CARE FACILITY LICENSE **80035**

(a) Conditions for forfeiture of a community care facility license may be found in Section 1524 of the Health and Safety Code.

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(1) Health and Safety Code Section 1524 reads in part:

A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

(a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when such transfer of stock does not constitute a majority change of ownership.

(b) The licensee surrenders the license to the department.

(c) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that such facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.

(d) The licensee is convicted of an offense specified in Section 220.243.4 or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.

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80035 CONDITIONS FOR FORFEITURE OF A COMMUNITY CARE FACILITY LICENSE (Continued) **80035**

HANDBOOK CONTINUES

(e) The licensee dies. If an adult relative notifies the department of his or her desire to continue operation of the facility and submits an application, the department shall expedite the application. The department shall promulgate regulations for expediting applications submitted pursuant to this subdivision.

(f) The licensee abandons the facility.

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(1) "Licensee abandons the facility" shall mean either of the following:

(A) The licensee informs the licensing agency that the licensee no longer accepts responsibility for the facility, or

(B) The licensing agency is unable to determine the licensee's whereabouts after the following:

1. The licensing agency requests information of the licensee's whereabouts from the facility's staff if any staff can be contacted; and

2. The licensing agency has made at least one (1) phone call per day, to the licensee's last telephone number of record, for five (5) consecutive workdays with no response; and

3. The licensing agency has sent a certified letter, requesting the licensee to contact the licensing agency, to the licensee's last mailing address of record with no response within seven (7) calendar days.

(b) If the facility licensee dies, an adult relative who has control of the property shall be permitted to operate a previously licensed facility under an Emergency Approval to Operate (LIC 9117 4/93) (EAO) providing the following conditions are met:

(1) The relative or an adult acting on the relative's behalf notifies the Department by telephone during the first working day after the licensee's death that the relative intends to operate the community care facility.

80035 CONDITIONS FOR FORFEITURE OF A COMMUNITY CARE FACILITY LICENSE (Continued) **80035**

(2) The relative files with the Department within five days of the licensee's death an Application for License (LIC 200 7/91) and evidence of the licensee's death as defined in Section 80001(e)(4).

(A) Notwithstanding the instructions on the Application for License (LIC 200 7/91), the Department shall permit the relative to submit only the information on the front side of that form.

(3) The relative files with the California Department of Justice within five calendar days of the licensee's death his/her fingerprint cards.

(c) If the adult relative complies with (b)(1) and (2) above, he/she shall not be considered to be operating an unlicensed facility pending the Department's decision on whether to approve a provisional license.

(d) The Department shall make a decision within 60 days after the application is submitted on whether to issue a provisional license pursuant to Section 80030.

(1) A provisional license shall be granted only if the Department is satisfied that the conditions specified in (b) above and Section 80030 have been met and that the health and safety of the residents of the facility will not be jeopardized.

NOTE: Authority cited: Sections 1524(e) and 1530, Health and Safety Code. Reference: Sections 1524 and 1524(e), Health and Safety Code.

80036 LICENSING FEES **80036**

(a) An applicant or a licensee shall be charged fees as specified in Health and Safety Code Section 1523.1.

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Health and Safety Code Section 1523.1 provides:

(a)(1) An application fee adjusted by facility and capacity shall be charged by the department for the issuance of a license. After initial licensure, a fee shall be charged by the department annually on each anniversary of the effective date of the license. The fees are for the purpose of financing the activities specified in this chapter. Fees shall be assessed as follows, subject to paragraph (2):

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80036 LICENSING FEES (Continued) **80036**

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Fee Schedule

Facility Type	Capacity	Initial Application	Annual
Foster Family and Adoption Agencies		$ 3,025	$1,513
Adult Day Programs	1-15	$ 182	$ 91
	16-30	$ 303	$ 152
	31-60	$ 605	$ 303
	61-75	$ 758	$ 378
	76-90	$ 908	$ 454
	91-120	$ 1,210	$ 605
	121+	$ 1,513	$ 757
Other Community Care Facilities	1-3	$ 454	$ 454
	4-6	$ 908	$ 454
	7-15	$ 1,363	$ 681
	16-30	$ 1,815	$ 908
	31-49	$ 2,270	$ 1,135
	50-74	$ 2,725	$ 1,363
	75-100	$ 3,180	$ 1,590
	101-150	$ 3,634	$ 1,817
	151-200	$ 4,237	$2,119
	201-250	$ 4,840	$ 2,420
	251-300	$ 5,445	$ 2,723
	301-350	$ 6,050	$ 3,025
	351-400	$ 6,655	$ 3,328
	401-500	$ 7,865	$ 3,933
	501-600	$ 9,075	$ 4,538
	601-700	$10,285	$ 5,143
	701+	$12,100	$ 6,050

HANDBOOK CONTINUES

80036 LICENSING FEES (Continued) **80036**

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(2)(A) The Legislature finds that all revenues generated by fees for licenses computed under this section and used for the purposes for which they were imposed are not subject to Article XIII B of the California Constitution.

(B) The department, at least every five years, shall analyze initial application fees and annual fees issued by it to ensure the appropriate fee amounts are charged. The department shall recommend to the Legislature that fees established by the Legislature be adjusted as necessary to ensure that the amounts are appropriate.

(b) (1) In addition to fees set forth in subdivision (a), the department shall charge the following fees:

(A) A fee that represents 50 percent of an established application fee when an existing licensee moves the facility to a new physical address.

(B) A fee that represents 50 percent of the established application fee when a corporate licensee changes who has the authority to select a majority of the board of directors.

(C) A fee of twenty-five dollars ($25) when an existing licensee seeks to either increase or decrease the licensed capacity of the facility.

(D) An orientation fee of fifty dollars ($50) for attendance by any individual at a department-sponsored orientation session.

(E) A probation monitoring fee equal to the current annual fee, in addition to the current annual fee for that category and capacity for each year a license has been placed on probation as a result of a stipulation or decision and order pursuant to the administrative adjudication procedures of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(F) A late fee that represents an additional 50 percent of the established current annual fee when any licensee fails to pay the current annual licensing fee on or before the due date as indicated by postmark on the payment.

(G) A fee to cover any costs incurred by the department for processing payments including, but not limited to, bounced check charges, charges for credit and debit transactions, and postage due charges.

(H) A plan of correction fee of two hundred dollars ($200) when any licensee does not implement a plan of correction on or prior to the date specified in the plan.

HANDBOOK CONTINUES

80036 LICENSING FEES (Continued) **80036**

HANDBOOK CONTINUES

(2) Foster family homes shall be exempt from the fees imposed pursuant to this subdivision.

(3) Foster family agencies shall be annually assessed eighty-eight dollars ($88) for each home certified by the agency.

(4) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.

(c) (1) The revenues collected from licensing fees pursuant to this section shall be utilized by the department for the purpose of ensuring the health and safety of all individuals provided care and supervision by licensees and to support activities of the licensing program, including, but not limited to, monitoring facilities for compliance with licensing laws and regulations pursuant to this chapter, and other administrative activities in support of the licensing program, when appropriated for these purposes. The revenues collected shall be used in addition to any other funds appropriated in the Budget Act in support of the licensing program. The department shall adjust the fees collected pursuant to this section as necessary to ensure that they do not exceed the costs described in this paragraph.

HANDBOOK CONTINUES

80036 LICENSING FEES (Continued) **80036**

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(2) The department shall not utilize any portion of these revenues sooner than 30 days after notification in writing of the purpose and use of this revenue, as approved by the Director of Finance, to the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committee in each house that considers appropriations for each fiscal year. The department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.

(d) A facility may use a bona fide business check to pay the license fee required under this section.

(e) The failure of an applicant or licensee to pay all applicable and accrued fees and civil penalties shall constitute grounds for denial or forfeiture of a license.

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(b) An additional fee shall be charged when the licensee requests an increase or decrease in capacity as specified in Health and Safety Code Section 1523.1(b)(1)(C).

(c) When a licensee moves a facility from one location to another, the relocation fee shall be as specified in Health and Safety Code Section 1523.1(b)(1)(A).

(1) To qualify for the relocation fee the following shall apply:

(A) The licensee shall have notified the licensing agency before actually relocating the facility.

(B) The categorical type of facility shall remain the same when relocating the facility.

(C) The fee shall be by requested capacity at the new location.

(d) The fees shall be nonrefundable.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1523.1, and 1524, Health and Safety Code.

Article 4. ADMINISTRATIVE ACTIONS

80040 DENIAL OF INITIAL LICENSE 80040

(a) Except as specified in Section 80030, which provides for issuance of a provisional license based upon substantial compliance and urgent need, the licensing agency shall deny an application for an initial license if it is determined that the applicant is not in compliance with applicable law and regulation.

(1) The licensing agency shall have the authority to deny an application for an initial license if the applicant has failed to pay any civil penalty assessments pursuant to Section 80058 and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.

(2) An application for initial licensure shall not be denied solely on the basis that the applicant is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

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(A) Section 11165, subdivision (g) of the Penal Code states:

Child abuse means a physical injury which is inflicted by other than accidental means on a child by another person. Child abuse also means the sexual assault of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). Child abuse also means the neglect of a child or abuse in out-of-home care.

(B) Section 273(A) of the Penal Code states:

Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 3 or 4 years.

HANDBOOK CONTINUES

80040 DENIAL OF INITIAL LICENSE (Continued) **80040**

HANDBOOK CONTINUES

Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

(C) Section 273(d) of the Penal Code states:

Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3, or 4 years, or in the county jail for not more than one year.

(D) Section 1531.5(c) of the Health and Safety Code states:

Child abuse means a situation in which a child suffers from any one or more of the following:

1. Serious physical injury inflicted upon the child by other than accidental means.

2. Harm by reason of intentional neglect or malnutrition or sexual abuse.

3. Going without necessary and basic physical care.

4. Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.

5. Any condition which results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development, or capacity for independence.

HANDBOOK ENDS HERE

(3) An application for licensure shall be denied as specified in Health and Safety Code Sections 1520.11(b), (d) and 1550.

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80040 DENIAL OF INITIAL LICENSE (Continued) **80040**

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(A) Health and Safety Code Section 1520.11(b) reads:

"(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, an executive director, or an officer, who is not eligible for licensure pursuant to Section 1520.3 or Section 1558.1."

(B) Health and Safety Code Section 1520.11(d) states:

"(d) Prior to instituting administrative action pursuant to either subdivision (b) or (c), the department shall notify the applicant or licensee of the person's ineligibility to be a member of the board of directors, an executive director, or an officer of the applicant or licensee. The licensee shall remove the person from that position within 15 days or, if the person has client contact, he or she shall be removed immediately upon notification."

(C) Health and Safety Code Section 1550 states:

"The department may deny an application for, or suspend or revoke, any licensee, or any administrator certificate, issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

"(a) Violation by the licensee or holder of a special permit of this chapter or of the rules and regulations promulgated under this chapter.

"(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations promulgated under this chapter."

"(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of the State of California.

"(d) The conviction of a licensee, or other person mentioned in Section 1522, at any time before or during licensure, of a crime as defined in Section 1522.

"(e) The licensee of any facility or the person providing direct care or supervision knowingly allows any child to have illegal drugs or alcohol.

"(f) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services."

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80040 DENIAL OF INITIAL LICENSE (Continued) **80040**

(b) If the application for an initial licensee is denied, the licensing agency shall mail the applicant a written notice of denial.

(1) The notification shall inform the applicant of and set forth the reasons for the denial, and shall advise the applicant of the right to appeal.

(c) If the application for an initial license is denied, the application processing fee shall be forfeited.

(d) An applicant shall have the right to appeal the denial of the application pursuant to Health and Safety Code Section 1526.

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(1) Health and Safety Code Section 1526 provides in part:

Immediately upon the denial of any application for a license or for a special permit, the licensing agency shall notify the applicant in writing. Within 15 days after the licensing agency mails the notice, the applicant may present his/her written petition for a hearing to the licensing agency. Upon receipt by the licensing agency of the petition in proper form, such petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Health and Safety Code Section 1551 provides in part:

Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with the provisions of Chapter 5 commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.

HANDBOOK ENDS HERE

(e) Notwithstanding any appeal action, the facility is unlicensed and shall not operate pending adoption by the director of a decision on the denial action.

NOTE: Authority cited: Sections 1523 and 1530, Health and Safety Code. Reference: Sections 1520, 1520.11, 1523, 1525, 1526, 1528, 1547 and 1548, Health and Safety Code.

80041 DENIAL OF A RENEWAL LICENSE 80041

Repealed by CDSS Manual Letter No. CCL 01-07, effective 6/29/01.

NOTE: Authority cited: Sections 1523 and 1530, Health and Safety Code. Reference: Sections 1520, 1523, 1524, 1525, 1526 and 1528, Health and Safety Code.

80042 REVOCATION OR SUSPENSION OF LICENSE 80042

(a) The Department shall have the authority to suspend or revoke any license on any of the grounds specified in Health and Safety Code Sections 1550 and 1550.5.

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(1) Health and Safety Code Section 1550 specifies the following grounds:

"The department may deny an application for, or suspend or revoke any license, or any administrator certificate, issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

"(a) Violation by the licensee, or holder of a special permit of this chapter or of the rules and regulations promulgated under this chapter.

"(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations promulgated under this chapter.

"(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of the State of California.

"(d) The conviction of a licensee, or other person mentioned in Section 1522, at any time before or during licensure, of a crime as defined in Section 1522.

"(e) The licensee of any facility or the person providing direct care or supervision knowingly allows any child to have illegal drugs or alcohol.

"(f) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services."

(2) Health and Safety Code Section 1550.5 provides in pertinent part:

"The director may temporarily suspend any license prior to any hearing when, in the opinion of the director, the action is urgent to protect residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall serve the licensee with the temporary suspension order, a copy of available discovery and other relevant evidence in the possession of the department, including, but not limited to, affidavits, declarations, and any other evidence upon which the director relied in issuing the temporary suspension order, the names of the department's witnesses, and the effective date of the temporary suspension and at the same time shall serve the licensee with an accusation.

80042 REVOCATION OR SUSPENSION OF LICENSE (Continued) **80042**

HANDBOOK CONTINUES

"(b) Upon receipt of a notice of defense to the accusation by the licensee, the director shall, within 15 days, set the matter for a full evidentiary hearing, and the hearing shall be held as soon as possible but not later than 30 days after receipt of such notice. The temporary suspension shall remain in effect until the time the hearing is completed and the director has made a final determination on the merits, unless it is earlier vacated by interim decision of the administrative law judge or a superior court judge. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 30 days after the original hearing has been completed."

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80042 REVOCATION OR SUSPENSION OF LICENSE (Continued) **80042**

(b) Proceedings to hear a revocation action or a revocation and temporary suspension action shall be conducted pursuant to the provisions of Health and Safety Code Section 1551.

HANDBOOK BEGINS HERE

(1) Health and Safety Code Section 1551 provides in part:

Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with the provisions of Chapter 5 commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Chapter 5 commencing with Section 11500 of Part 1, Division 3, Title 2 of the Government Code provides in part:

(A) When the Director intends to seek revocation of a license, he/she shall notify the licensee of the proposed action; shall concurrently serve the licensee with an accusation; and advise the licensee of the right to a hearing.

(B) The licensee has the right to a hearing prior to the revocation or suspension of a license, except as provided below:

(1) The Director may temporarily suspend any license prior to hearing when in his/her opinion such action is necessary to protect the clients in the facility from any physical or mental abuse or any other substantial threat to health or safety.

(2) When the Director intends to temporarily suspend a license prior to a hearing, he/she shall notify the licensee of the temporary suspension and the effective date thereof, and concurrently serve the licensee with an accusation.

(C) The licensee shall apply for a hearing under (B) above by sending a written notice of defense to the Director within 15 calendar days of the mailing date of the revocation or suspension notice.

(D) The Director shall, within 15 days of receipt of the notice of defense, request the Office of Administrative Hearings to set the matter for hearing.

(c) For a revocation and temporary suspension action, the Director shall request the Office of Administrative Hearings to hold the hearing as soon as possible but not later than 30 calendar days after receipt of the notice of defense.

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80042 REVOCATION OR SUSPENSION OF LICENSE (Continued) **80042**

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1550, 1550.5, and 1551, Health and Safety Code.

80043 LICENSEE/APPLICANT COMPLAINTS 80043

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(a) Each licensee/applicant shall have the right, without prejudice, to bring to the attention of the department or the licensing agency, or both, any alleged misapplication or capricious enforcement of regulations by any licensing representative, or any differences in opinion between the licensee and any licensing representative concerning the proper application of these regulations.

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NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

80044 INSPECTION AUTHORITY OF THE LICENSING AGENCY 80044

(a) The licensing agency shall have the inspection authority specified in Health and Safety Code Sections 1526.5, 1533, 1534, 1538 and 1538.7.

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(1) Health and Safety Code Section 1526.5 provides in part:

Within 90 days after the date of issuance of a license or special permit pursuant to Section 1525, the department shall conduct an inspection of the facility for which the license or special permit was issued.

(2) Health and Safety Code Section 1533 provides in part:

...any duly authorized officer, employee, or agent of the State Department of Social Services may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter.

(3) Health and Safety Code Section 1534 provides in part:

"(a) (1) Every licensed community care facility shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.

HANDBOOK CONTINUES

80044 INSPECTION AUTHORITY OF THE LICENSING AGENCY 80044
(Continued)

HANDBOOK CONTINUES

"(A) The department shall conduct an annual unannounced visit to a facility under any of the following circumstances:

"(i) When a license is on probation.

"(ii) When the terms of agreement in a facility compliance plan require an annual evaluation.

"(iii) When an accusation against a licensee is pending.

"(iv) When a facility requires an annual visit as a condition of receiving federal financial participation.

"(v) In order to verify that a person who has been ordered out of a facility by the department is no longer at the facility.

"(B) The department shall conduct [random] annual unannounced visits to no less than 10 percent of facilities not subject to an evaluation under subparagraph (A)....

"(C) Under no circumstance shall the department visit a community care facility less often than once every five years."

(4) Health and Safety Code Section 1538(c) provides in part:

(c) Upon receipt of a complaint,... the state department shall make a preliminary review and,... it shall make an onsite inspection... within 10 days after receiving the complaint, except where a visit would adversely affect the licensing investigation or the investigation of other agencies.

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(b) The licensing agency shall have the authority to interview clients, including children, or staff members, without prior consent.

(1) The licensee shall ensure that provisions are made for private interviews with any clients, including children, or any staff members.

(c) The licensing agency shall have the authority to inspect, audit, and copy client or facility records upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the requirements specified in Sections 80066(c) and 80070(d).

80044 INSPECTION AUTHORITY OF THE LICENSING AGENCY 80044
(Continued)

(1) The licensee shall ensure that provisions are made for the examination of all records relating to the operation of the facility.

(d) The licensing agency shall have the authority to observe the physical condition of the client, including conditions that could indicate abuse, neglect, or inappropriate placement, and to have a licensed medical professional physically examine the client.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1526.5, 1531, 1533, 1534, 1538 and 1538.7, Health and Safety Code.

80045 EVALUATION VISITS 80045

(a) Community care facilities shall be evaluated as specified in Health and Safety Code Sections 1534 and 1548.

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(1) Health and Safety Code Section 1534(a) provides in part:

"(a) (1) Every licensed community care facility shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.

"(A) The department shall conduct an annual unannounced visit to a facility under any of the following circumstances:

"(i) When a license is on probation.

"(ii) When the terms of agreement in a facility compliance plan require an annual evaluation.

"(iii) When an accusation against a licensee is pending.

"(iv) When a facility requires an annual visit as a condition of receiving federal financial participation.

"(v) In order to verify that a person who has been ordered out of a facility by the department is no longer at the facility.

HANDBOOK CONTINUES

80045 EVALUATION VISITS (Continued) **80045**

HANDBOOK CONTINUES

"(B) The department shall conduct [random] annual unannounced visits to no less than 10 percent of facilities not subject to an evaluation under subparagraph (A)...

"(C) Under no circumstance shall the department visit a community care facility less often than once every five years.

"(2) The department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

"(3) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located."

(2) Health and Safety Code Section 1548 provides in part:

"(a) In addition to suspension or revocation of a license issued, ... the department may levy a civil penalty in addition to the penalties of suspension or revocation.

"(b) The amount of the civil penalty shall not be less than twenty-five dollars ($25) or more than fifty dollars ($50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. In no event, shall a civil penalty assessment exceed one hundred fifty dollars ($150) per day."

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(b) The licensing agency shall have the authority to make any number of other visits to a facility in order to determine compliance with applicable law and regulation.

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(c) Repealed by Manual Letter No. CCL-91-05, effective 1/20/91.

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NOTE: Authority cited: Section 1530 and 1548, Health and Safety Code. Reference: Sections 1533, 1534, 1538 and 1548, Health and Safety Code.

80046 EXCLUSIONS 80046

(a) An individual can be prohibited from serving as a member of a board of directors, executive director, or officer; from being employed or allowing an individual in a licensed facility as specified in Health and Safety Code Sections 1558 and 1558.1.

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(1) Health and Safety Code Section 1558 reads:

"(a) The department may prohibit any person from being a member of the board of directors, an executive director, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has:

"(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

"(2) Engaged in conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California.

"(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1522.

"(4) Engaged in any other conduct which would constitute a basis for disciplining a licensee.

"(5) Engaged in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.

"(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded person fails to file a written appeal within the prescribed time, the department's action shall be final.

"(c)(1) The department may require the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

HANDBOOK CONTINUES

80046 EXCLUSIONS (Continued) **80046**

HANDBOOK CONTINUES

"(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility, the department shall serve an order of immediate exclusion upon the excluded person which shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

"(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:

"(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

"(B) Within 60 days of receipt of a notice of defense pursuant to Section 11506 of the Government Code by the excluded person to conduct a hearing on the accusation.

"(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

"(d) An excluded person who files a written appeal with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

"(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

"(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section, or enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee or the excluded person's employment or presence in the facility or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application, or change of duties by the excluded person, or any discharge, failure to hire, or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

HANDBOOK CONTINUES

80046 EXCLUSIONS (Continued) **80046**

HANDBOOK CONTINUES

"(g) A licensee's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1550.

"(h)(1)(A) In cases where the excluded person appealed the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

"(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

"(2)(A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

"(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order."

(2) Health and Safety Code Section 1558.1 reads:

"(a)(1) If the department determines that a person was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to the chapter.

"(2) If the department determines that a person previously was issued a certificate of approval by a foster family agency which was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter.

HANDBOOK CONTINUES

80046 EXCLUSIONS (Continued) **80046**

HANDBOOK CONTINUES

"(b) If the department determines that the person had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

"(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

"(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

"(c) If the department determines that the person had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

"(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

"(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

"(d) Exclusion or removal of an individual pursuant to this section shall not be considered an order of exclusion for purposes of Section 1558 or any other law.

HANDBOOK CONTINUES

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80046 EXCLUSIONS (Continued) **80046**

HANDBOOK CONTINUES

"(e) The department may determine not to exclude the person from, or remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter if it has determined that the reasons for the denial of the application or revocation of the facility license or certificate of approval were due to circumstances and conditions that either have been corrected or are no longer in existence."

HANDBOOK ENDS HERE

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1558 and 1558.1, Health and Safety Code.

Article 5. ENFORCEMENT PROVISIONS

80051 SERIOUS DEFICIENCIES 80051

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(a) The following are examples of regulations that, if not complied with, nearly always result in a serious deficiency.

(1) Section 80010 relating to limitations on the capacity or ambulatory status of facility clients.

(2) Section 80019 relating to criminal record clearance.

(3) Section 80020 relating to fire clearance.

(4) Section 80021 relating to water supply.

(5) Section 80072 relating to client rights.

(6) Section 80073 relating to telephone service.

(7) Section 80075(h) through (j) relating to storing and dispensing medications.

(8) Section 80076 relating to food storage, preparation and service.

(9) Section 80087 relating to safety of client accommodations.

(10) Section 80088(e)(1), (2), and (3) relating to hot water temperature and toilet facilities.

(11) Section 80088(f) relating to storage and disposal of solid wastes.

(12) Section 80094.5 relating to a licensee forwarding to the Department a client's request for an IDT review of a health condition relocation order.

(13) Any other regulation, the violation of which is deemed by the licensing agency to constitute a serious deficiency as defined in Section 80001s.(1).

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, 1531 and 1534, Health and Safety Code.

80052 DEFICIENCIES IN COMPLIANCE 80052

(a) When a licensing evaluation is conducted and the evaluator determines that a deficiency exists the evaluator shall issue a notice of deficiency, unless the deficiency is not serious and is corrected during the visit.

(b) Prior to completion of an evaluation or other licensing visit, the licensee, administrator, operator, or other person in charge of the facility shall meet with the evaluator to discuss any deficiencies noted, to jointly develop a plan for correcting each deficiency, and to acknowledge receipt of the notice of deficiency.

(c) The evaluator shall provide notice of deficiency to the licensee by one of the following:

(1) Personal delivery to the licensee, at the completion of the visit.

(2) If the licensee is not at the facility site, leaving the notice with the person in charge of the facility at the completion of the visit.

(A) Under such circumstances, a copy of the notice shall also be mailed to the licensee.

(3) If the licensee or the person in charge of the facility refuses to accept the notice, a notation of the refusal shall be written on the notice and a copy left at the facility.

(A) Under such circumstances, a copy of the notice shall also be mailed to the licensee.

(d) The notice of deficiency shall be in writing and shall include the following:

(1) Citation of the statute or regulation which has been violated.

(2) A description of the nature of the deficiency stating the manner in which the licensee failed to comply with a specified statute or regulation, and the particular place or area of the facility in which it occurred.

(3) The plan developed, as specified in (b) above, for correcting each deficiency.

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(A) Section 1522(c) of the Health and Safety Code provides in part:

Fingerprints not submitted to the Department of Justice, as required in this section, shall result in the citation of a deficiency and the fingerprints shall then be submitted to the California Department of Social Services for processing.

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80052 DEFICIENCIES IN COMPLIANCE (Continued) 80052

(4) A date by which each deficiency shall be corrected.

(A) In determining the date for correcting a deficiency, the evaluator shall consider the following factors:

1. The potential hazard presented by the deficiency.

2. The number of clients affected.

3. The availability of equipment or personnel necessary to correct the deficiency.

4. The estimated time necessary for delivery, and for any installation, of necessary equipment.

(B) The date for correcting a deficiency shall not be more than 30 calendar days following service of the notice of deficiency, unless the evaluator determines that the deficiency cannot be completely corrected in 30 calendar days.

(C) If the date for correcting the deficiency is more than 30 calendar days following service of the notice of deficiency, the notice shall specify the corrective actions which must be taken within 30 calendar days to begin correction.

(D) The evaluator shall require correction of the deficiency within 24 hours and shall specify on the notice the date by which the correction must be made whenever penalties are assessed pursuant to Sections 80054(c), (d) and (e).

(5) The amount of penalty being assessed and the date the penalty begins.

(6) The address and telephone number of the licensing office responsible for reviewing notices of deficiencies for the area in which the facility is located.

NOTE: Authority cited: Section 1530 and 1548, Health and Safety Code. Reference: Section 1534 and 1548, Health and Safety Code.

80053 FOLLOW-UP VISITS TO DETERMINE COMPLIANCE 80053

(a) A follow-up visit shall be conducted to determine compliance with the plan of correction specified in the notice of deficiency.

(1) At a minimum, a follow-up visit shall be conducted within ten working days following the dates of corrections specified in the notice of deficiency, unless the licensee has demonstrated that the deficiency was corrected as required.

(2) No penalty shall be assessed unless a follow-up visit is conducted as specified in (a) and (a)(1) above.

(b) If a follow-up visit indicates that a deficiency was not corrected on or before the date specified in the notice of deficiency, the evaluator shall issue a notice of penalty.

(c) A notice of penalty shall be in writing and shall include:

(1) The amount of penalty assessed, and the date the payment is due.

(2) The name and address of the agency responsible for collection of the penalty.

(d) When an immediate penalty has been assessed pursuant to Sections 80054(c), (d), (e) and (f) and correction is made when the evaluator is present, a follow-up visit is not required.

NOTE: Authority cited: Section 1530 and 1548, Health and Safety Code. Reference: Sections 1533, 1534 and 1548, Health and Safety Code.

80054 PENALTIES 80054

(a) A penalty of $50 per day, per cited violation, shall be assessed for serious deficiencies that are not corrected by the date specified in the notice of deficiency, up to a maximum of $150 per day.

(b) Notwithstanding Section 80054(a) above, an immediate penalty of $100 per cited violation per day for a maximum of five (5) days shall be assessed if any individual required to be fingerprinted under Health and Safety Code Section 1522(b) has not obtained a California clearance or a criminal record exemption, requested a transfer of a criminal record clearance or requested and be approved for a transfer of an exemption as specified in Section 80019(e) prior to working, residing or volunteering in the facility.

(1) Subsequent violations within a twelve (12) month period will result in a civil penalty of one hundred dollars ($100) per violation per day for a maximum of thirty (30) days.

(2) The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1548.

80054 PENALTIES (Continued) **80054**

(3) Progressive civil penalties specified in Sections 80054(d) and (e) below shall not apply.

(c) Notwithstanding Section 80054(a) above, an immediate penalty of $150 per day shall be assessed for any of the following:

(1) Sickness, injury or death of a client has occurred as a result of the deficiency.

(d) When a facility is cited for a deficiency and violates the same regulation subsection within a 12-month period, the facility shall be cited and an immediate penalty assessment of $150 per cited violation shall be assessed for one day only. Thereafter a penalty of $50 per day, per cited violation, shall be assessed until the deficiency is corrected.

(e) When a facility, that was cited for a deficiency subject to the immediate penalty assessment in Section 80054(d) above, violates the same regulation subsection within a 12-month period of the last violation, the facility shall be cited and an immediate penalty of $150 per cited violation shall be assessed for one day only. Thereafter, a penalty of $150 per day, per cited violation, shall be assessed until the deficiency is corrected.

(1) For purposes of Sections 80054(d) and (e) above, a regulation subsection is the regulation denoted by a lower-case letter after the main regulation number.

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An example of the same regulation subsections are Sections 87218(a)(2) and 87218(a)(5). Sections 87218(a) and 87218(b) are not the same regulation subsection.

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(f) If any deficiency is not corrected by the date specified in the notice of deficiency, a penalty shall be assessed for each day following that date until compliance has been demonstrated.

(1) Immediate penalty assessment as specified in (c), (d) and (e) above, shall begin on the day the deficiency is cited.

(g) If a licensee or his/her representative reports to the licensing agency that a deficiency has been corrected, the penalty shall cease as of the day the licensing agency receives notification that the correction was made.

80054 PENALTIES (Continued) **80054**

(1) If the deficiency has not been corrected, civil penalties shall continue to accrue from the date of the original citation.

(2) If it can be verified that the correction was made prior to the date of notification, the penalty shall cease as of that earlier date.

(h) If necessary, a site visit shall be made immediately or within five working days to confirm deficiency has been corrected.

(i) If an immediate civil penalty is assessed, and the deficiency is corrected on the same day, the penalty shall still be assessed for that day.

(j) Unless otherwise ordered by the Department all penalties are due and payable upon receipt of notice for payment, and shall be paid only by check or money order made payable to the agency indicated in the notice.

(k) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (j) above.

NOTE: Authority cited: Sections 1530 and 1548, Health and Safety Code. Reference: Section 1522, 1534 and 1548, Health and Safety Code.

80055 ADMINISTRATIVE REVIEW **80055**

(a) A licensee or his/her representative shall have the right to request a review of a notice of deficiency and/or notice of penalty within 10 working days of receipt of such notice(s).

(1) If the deficiency has not been corrected, civil penalties shall continue to accrue during the review process.

(b) The review shall be conducted by a higher level staff person than the evaluator who issued the notice(s).

(c) If the reviewer determines that a notice of deficiency or notice of penalty was not issued or assessed in accordance with applicable statutes and regulations of the Department, or that other circumstances existed, he/she shall have the authority to amend or dismiss the notice.

(d) The reviewer shall have the authority to extend the date specified for correction of a deficiency if warranted by the facts or circumstances presented to support a request for extension.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Section 1534, Health and Safety Code.

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80055.1 DENIAL OR REVOCATION OF LICENSE FOR FAILURE TO PAY CIVIL PENALTIES 80055.1

(a) The licensee shall be responsible for paying civil penalties.

(1) Unless otherwise provided, the transfer, surrender, forfeiture or revocation of a license shall not affect the licensee's responsibility for paying any civil penalties accrued while the license was in effect.

(b) The Department shall have the authority to deny or revoke any license for failure to pay civil penalty assessments.

(1) The Department shall have the authority to approve payment arrangements acceptable to the Department.

(2) The Department shall have the authority to approve the form of payment.

(3) The licensee's failure to pay civil penalty assessments pursuant to a payment plan approved by the Department may result in the denial or revocation of any license, and/or any other appropriate action.

(c) Any denial or revocation of the license for failure to pay civil penalties may be appealed as provided by Health and Safety Code Section 1551.

NOTE: Authority cited: Sections 1530 and 1548, Health and Safety Code. Reference: Sections 1522, 1534, 1548 and 1551, Health and Safety Code.

80056 EXEMPTION FROM CIVIL PENALTIES 80056

(a) Civil penalties shall not be assessed against any governmental entity, including a state, or city, holding a community care facility license.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Section 1534, Health and Safety Code.

80058 UNLICENSED FACILITY PENALTIES 80058

(a) A penalty of $200 per day shall be assessed for the operation of an unlicensed facility under either of the following conditions:

(1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of the Notice of Operation in Violation of Law pursuant to Section 80006, and continues to operate.

(A) For purposes of this section, an application shall be deemed completed if it includes the information required in Section 80018.

(B) The completed application shall be deemed to be submitted when received by the licensing agency.

(2) Unlicensed operation continues after denial of the initial application.

(A) Notwithstanding any appeal action, facility operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

(b) The $200 per day penalty shall be assessed for the continued operation of an unlicensed facility as follows:

(1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law, and has not submitted a completed application as required.

(A) The $200 per day penalty shall continue until the operator ceases operation, or submits a completed application pursuant to Sections 80058(a)(1)(A) and (B).

(2) Within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

80058 UNLICENSED FACILITY PENALTIES (Continued) **80058**

(A) The $200 per day penalty shall continue until the operator ceases operation.

(c) If the unlicensed operator or his/her representative reports to the licensing agency that unlicensed operation, as defined in Section 1503.5 of the Health and Safety Code, has ceased, the penalty shall cease as of the day the licensing agency receives the notification.

(1) A site visit shall be made immediately or within five working days to verify that the unlicensed facility operation has ceased.

(2) Notwithstanding (c) above, if the unlicensed facility operation has not ceased, penalties shall continue to accrue without interruption from the date of initial penalty assessment.

(d) All penalties shall be due and payable upon receipt of the Notice for Payment from the licensing agency, and shall be paid by check or money order made payable to the agency indicated in the notice.

(e) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (d) above.

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(f) Payment of civil penalties or application for licensure in response to a citation under this section do not permit the operation of a community care facility without a license.

(1) Section 1508 of the Health and Safety Code provides in part:

No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct, or maintain a community care facility in this state, without a current valid license therefor as provided in this chapter.

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1503.5, 1508, 1520, 1533, 1538, 1540, 1540.1, 1541, 1547, and 1549, Health and Safety Code.

80059 UNLICENSED FACILITY ADMINISTRATIVE APPEAL 80059

(a) An unlicensed facility operator or his/her representative shall have the right to appeal the penalty assessment within 10 working days after service of the penalty assessment.

(1) If the unlicensed facility operation has not ceased, the $200 per day penalty shall continue to accrue during the appeal process.

(b) The appeal review shall be conducted by a higher level staff person than the evaluator who issued the penalty.

(c) If the reviewer of the appeal determines that the penalty assessment was not issued in accordance with applicable statutes and regulations of the Department, he/she shall have the authority to amend or dismiss the penalty assessment.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1503.5, 1508, 1547, and 1548, Health and Safety Code.

Article 6. CONTINUING REQUIREMENTS

80061 REPORTING REQUIREMENTS 80061

(a) Each licensee or applicant shall furnish to the licensing agency reports as required by the Department, including, but not limited to, those specified in this section.

(b) Upon the occurrence, during the operation of the facility, of any of the events specified in (1) below, a report shall be made to the licensing agency within the agency's next working day during its normal business hours. In addition, a written report containing the information specified in (2) below shall be submitted to the licensing agency within seven days following the occurrence of such event.

(1) Events reported shall include the following:

(A) Death of any client from any cause.

(B) In a residential facility, death of any client as a result or injury, abuse, or other than natural causes, regardless of where the death occurred. This includes a death that occurred outside the facility such as at a day program, workshop, job, hospital, en route to or from a hospital, or visiting away from the facility.

1. The licensee shall obtain a certified copy of the client's death certificate as soon as it is available, maintain it in the client's file, and shall send a copy to the Department as soon as it is obtained.

2. For Regional Center clients, the licensee shall also send a copy of the death certificate to the Regional Center.

(C) In an adult CCF or a Group Home for Children with Special Health Care Needs, the use of an Automated External Defibrillator.

(D) Any injury to any client which requires medical treatment.

(E) Any unusual incident or client absence which threatens the physical or emotional health or safety of any client.

1. For community care facilities that serve children, a pregnancy or termination of a pregnancy does not, in and of itself, constitute an unusual incident unless it meets the criteria specified for mandated reporting in Penal Code section 11166 (a).

(F) Any suspected psychological abuse of any client.

80061 REPORTING REQUIREMENTS (Continued) **80061**

(G) Any suspected physical abuse of any minor.

1. For community care facilities that serve children, a pregnancy or termination of a pregnancy does not, in and of itself, constitute physical abuse of a minor unless it meets the criteria specified for mandated reporting in Penal Code section 11166 (a).

(H) Epidemic outbreaks.

(I) Poisonings.

(J) Catastrophes.

(K) Fires or explosions which occur in or on the premises.

(2) Information provided shall include the following:

(A) Client's name, age, sex, and date of admission.

(B) Date and nature of event.

(C) Attending physician's name, findings, and treatment, if any.

(D) Disposition of the case.

(c) Any known, suspected, or alleged abuse of an elder or dependent adult that was allegedly caused by another resident of the facility with dementia diagnosed by a licensed physician and there was no serious bodily injury, shall be reported to the long-term care ombudsman, and the local law enforcement agency as required by Welfare and Institutions Code Section 15630(b)(1).

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Welfare and Institutions Code section 15630(b)(1) provides in pertinent part:

> A mandated reporter who, in their professional capacity, or within the scope of their employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that they have experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known, suspected, or alleged instance of abuse by telephone or through a confidential internet reporting tool, as authorized by Section 15658, immediately or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an internet report shall be made through the confidential internet reporting tool established in Section 15658, within two working days.

HANDBOOK CONTINUES

80061 REPORTING REQUIREMENTS (Continued) **80061**

HANDBOOK CONTINUES

(A) If the known, suspected, or alleged abuse occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the following shall occur:

(i) If the abuse was allegedly caused by another resident of the facility with dementia diagnosed by a licensed physician and there was no serious bodily injury, the reporter shall submit a written report of the known, suspected, or alleged instance of abuse to both of the following agencies within 24 hours:

(I) The long-term care ombudsman.

(II) The local law enforcement agency.

Penal Code section 11166 provides in pertinent part:

(a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in the mandated reporter's professional capacity or within the scope of the mandated reporter's employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report by telephone to the agency immediately or as soon as is practicably possible, and shall prepare and send, fax, or electronically transmit a written followup report within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.

(1) For purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on the person's training and experience, to suspect child abuse or neglect. "Reasonable suspicion" does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect; any "reasonable suspicion" is sufficient. For purposes of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

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(d) All other instances of known, suspected, or alleged abuse of an elder or dependent adult not covered in subdivision (c), shall be reported to the long-term care ombudsman, the local law enforcement agency, and the corresponding state licensing agency as required by Welfare and Institutions Code Section 15630(b)(1).

80061 REPORTING REQUIREMENTS (Continued) **80061**

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Welfare and Institutions Code section 15630(b)(1) provides in pertinent part:

> A mandated reporter who, in their professional capacity, or within the scope of their employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that they have experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known, suspected, or alleged instance of abuse by telephone or through a confidential internet reporting tool, as authorized by Section 15658, immediately or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an internet report shall be made through the confidential internet reporting tool established in Section 15658, within two working days.
>
> (A) If the known, suspected, or alleged abuse occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the following shall occur:
>
> (i) . . .
>
> (ii) In all other instances, immediately or as soon as practically possible, but no longer than two hours, the reporter shall submit a verbal report of the known, suspected, or alleged instance of abuse to the local law enforcement agency, and shall submit a written report to all of the following agencies within 24 hours:
>
> (I) The long-term care ombudsman.
>
> (II) The local law enforcement agency.
>
> (III) The corresponding state licensing agency.

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(e) The items below shall be reported to the licensing agency within 10 working days following the occurrence.

(1) The organizational changes specified in Section 80034(a)(2).

(2) Any change in the licensee's or applicant's mailing address.

(3) Any change of the chief executive officer of a corporation or association.

(A) Such notification shall include the new chief executive officer's name and address.

(B) Fingerprints shall be submitted as specified in Section 80019(d).

80061 REPORTING REQUIREMENTS (Continued) **80061**

(4) Any changes in the plan of operation which affect the services to clients.

(f) The items specified in (b)(1)(A) through (H) above shall also be reported to the client's authorized representative, if any.

(g) The items specified in (b)(1)(E) through (G) above shall also be reported to the local health officer when appropriate pursuant to Title 17, California Code of Regulations, sections 2500 and 2502.

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(1) Title 17, California Code of Regulations, Section 2500 requires:

(b) It shall be the duty of every health care provider, knowing of or in attendance on a case or suspected case of any of the diseases or conditions listed in subsection (j) of this section, to report to the local health authority officer for the jurisdiction where the patient resides as required in subsection (h) of this section. Where no health care provider is in attendance, any individual having knowledge of a person who is suspected to be suffering from one of the diseases or conditions listed in subsection (j) of this section may make such a report to the local health officer for the jurisdiction where the patient resides.

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80061 REPORTING REQUIREMENTS (Continued) **80061**

(h) The item specified in (b)(1)(H) shall also be reported immediately to the local fire authority. In areas not having organized fire services a report shall be made to the State Fire Marshal within 24 hours.

(i) Licensees shall send copies of all substantiated complaints to board members of the licensed facility, parents, legal guardians, conservators, client rights advocates or placement agencies, as designated in each client's placement agreement in accordance with Health and Safety Code Section 1538.5.

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(1) Health and Safety Code Section 1538. 5 reads in part:

"(a)(1) Not less than 30 days prior to the anniversary of the effective date of a residential community care facility except licensed foster family homes, the department may transmit a copy to the board members of the licensed facility, parents, legal guardians, conservators, client's rights advocate, or placement agency, as designated in each resident's placement agreement, of all inspection reports given to the facility by the department during the past year as a result of a substantiated complaint regarding a violation of this chapter relating to resident abuse and neglect, food, sanitation, incidental medical care, and residential supervision. During that one-year period the copy of the notices transmitted and the proof of the transmittal shall be open for public inspection.

"(2) The department may transmit copies of the inspection reports referred to in paragraph (1) concerning a group home or short-term residential therapeutic program, as defined by regulations of the department, to the county in which the group home or short-term residential therapeutic program is located, if requested by that county.

"(3) A group home or short-term residential therapeutic program shall maintain, at the facility, a copy of all licensing reports for the past three years that would be accessible to the public through the department, for inspection by placement officials, current and prospective facility clients, and these clients' family members who visit the facility.

HANDBOOK CONTINUES

80061 REPORTING REQUIREMENTS (Continued) **80061**

HANDBOOK CONTINUES

"(b) The facility operator, at the expense of the facility, shall transmit a copy of all substantiated complaints, by certified mail, to those persons described pursuant to paragraph (1) of subdivision (a) in the following cases:

"(1) In the case of any substantiated complaint relating to resident physical or sexual abuse, the facility shall have three days, from the date the facility receives the licensing report from the state department to comply.

"(2) In the case in which a facility has received three or more substantiated complaints relating to the same violation during the past 12 months, the facility shall have five days from the date the facility receives the licensing report to comply.

"(c) Each residential facility shall retain a copy of the notices transmitted pursuant to subdivision (b) and proof of their transmittal by certified mail for a period of one year after their transmittal.

"(d) If residential facility to which this section applies fails to comply with the provisions of this section, as determined by the department, the department shall initiate civil penalty action against the facility in accordance with this article and the related rules and regulations.

"(e) Not less than 30 days prior to the anniversary of the effective date of the license of any group home or short-term residential therapeutic program, as defined by regulations of the department, at the request of the county in which the group home or short-term residential therapeutic program is located, a group home or short-term residential therapeutic program shall transmit to the county a copy of all incident reports prepared by the group home or short-term residential therapeutic program and transmitted to a placement agency, as described in subdivision (f) of Section 1536.1, in a county other than the county in which the group home or short-term residential therapeutic program is located that involved a response by local law enforcement or emergency services personnel, including runaway incidents. The county shall designate an official for the receipt of the incident reports and shall notify the group home or short-term residential therapeutic program of the designation. Prior to transmitting copies of incident reports to the county, the group home or short-term residential therapeutic program shall redact the name of any child referenced in the incident reports, and other identifying information regarding any child referenced in the reports. The county may review the incident reports to ensure that the group home or short-term residential therapeutic program has taken appropriate action to ensure the health and safety of the residents of the facility.

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80061 REPORTING REQUIREMENTS (Continued) **80061**

HANDBOOK CONTINUES

"(f) The department shall notify the residential community care facility of its obligation when it is required to comply with this section."

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NOTE: Authority cited: Sections 1530 and 1538.5, Health and Safety Code. Reference: Sections 1501, 1507, 1531, 1538.5, 1538.55 and 1797.196, Health and Safety Code; Section 11166, Penal Code; and Section 15630, Welfare and Institutions Code.

80062 FINANCES **80062**

(a) The licensee shall meet the following financial requirements:

(1) Development and maintenance of a financial plan which ensures resources necessary meet operating costs for care and supervision of clients.

(2) Maintenance of financial records.

(3) Submission of financial reports as required upon the written request of the department or licensing agency.

(A) Such request shall explain the necessity for disclosure.

(B) The licensing agency shall have the authority to reject any financial report, and to request and examine additional information including interim financial statements. The reason(s) for rejection of the report shall be in writing.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1520 and 1531, Health and Safety Code.

80063 ACCOUNTABILITY 80063

(a) The licensee, whether an individual or other entity, is accountable for the general supervision of the licensed facility, and for the establishment of policies concerning its operation.

(1) If the licensee is a corporation or an association, the governing body shall be active and functioning in order to ensure such accountability.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

80064 ADMINISTRATOR-QUALIFICATIONS AND DUTIES 80064

(a) The administrator shall have the following qualifications:

(1) Attainment of at least 18 years of age.

(2) Knowledge of the requirements for providing the type of care and supervision needed by clients, including ability to communicate with such clients.

(3) Knowledge of and ability to comply with applicable law and regulation.

(4) Ability to maintain or supervise the maintenance of financial and other records.

(5) Ability to direct the work of others, when applicable.

(6) Ability to establish the facility's policy, program and budget.

(7) Ability to recruit, employ, train, and evaluate qualified staff, and to terminate employment of staff, if applicable to the facility.

(b) Each licensee shall make provision for continuing operation and carrying out of the administrator's responsibilities during any absence of the administrator.

(c) The licensee, if an individual, or any member of the governing board of the licensed corporation or association, shall be permitted to be the administrator provided that he/she meets the qualifications specified in this section, and in applicable regulations in Chapters 2 through 7.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

80065 PERSONNEL REQUIREMENTS 80065

(a) Facility personnel shall be competent to provide the services necessary to meet individual client needs and shall, at all times, be employed in numbers necessary to meet such needs.

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(1) Section 1522(b)(2) of the Health and Safety Code provides:

Any person, other than a client, residing in the facility.

(2) Section 1522(c)(3) of the Health and Safety Code provides in part:

Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision.

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(b) The licensing agency shall have the authority to require any licensee to provide additional staff whenever the licensing agency determines and documents that additional staff are required for the provision of services necessary to meet client needs. The licensee shall be informed in writing of the reasons for the licensing agency's determination. The following factors shall be taken into consideration in determining the need for additional staff.

(1) Needs of the particular clients.

(2) Extent of the services provided by the facility.

(3) Physical arrangements of the particular facility.

(4) Existence of a state of emergency or disaster.

(c) The licensee shall be permitted to utilize volunteers provided that such volunteers are supervised, and are not included in the facility staff plan.

(d) The following facility personnel staff shall be at least 18 years of age:

(1) Persons who supervise employees and/or volunteers.

(2) Persons, including volunteers, who provide any element of care and supervision to clients.

80065 PERSONNEL REQUIREMENTS (Continued)

(e) The licensee shall provide for direct supervision of clients during participation in or presence at potentially dangerous activities or areas in the facility.

(1) An adult other than a client shall be present at all times while clients are using a pool or other body of water from which rescue requires the rescuer's ability to swim.

(2) Adults who supervise while clients are using a pool or other body of water from which rescue requires the rescuer's ability to swim, shall have a valid water safety certificate.

(f) All personnel shall be given on-the-job training or shall have related experience which provides knowledge of and skill in the following areas, as appropriate to the job assigned and as evidenced by safe and effective job performance.

(1) Principles of nutrition, food preparation and storage and menu planning.

(2) Housekeeping and sanitation principles.

(3) Provision of client care and supervision, including communication.

(4) Assistance with prescribed medications which are self-administered.

(5) Recognition of early signs of illness and the need for professional assistance.

(6) Availability of community services and resources.

(7) The licensee of a Group Home or Adult Residential Facility that has been approved by the Department to utilize secured perimeters shall meet the staff training requirements as established by the Health and Safety Code section 1531.15(e) and the California Code of Regulations, Title 17, Division 2, Chapter 3, Subchapter 4, Article 12, Section 56070(b).

80065 PERSONNEL REQUIREMENTS (Continued)

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Health and Safety Code section 1531.15 provides in pertinent part:

(e) The licensee shall provide staff training regarding the use and operation of the secured perimeters, protection of residents' personal rights, lack of hazard awareness and impulse control behavior, and emergency evacuation procedures.

California Code of Regulations, Title 17, Section 56070 provides in pertinent part:

(b) In addition to any other required training, the licensee or applicant shall provide 16 hours of training for each direct care staff, prior to staff being left alone with clients, which shall include at least the following:

(1) The personal rights of facility residents, including rights related to utilizing secured perimeters and delayed egress devices.

(2) Behavior management techniques of consumers lacking hazard awareness and impulse control.

(3) Emergency procedures in the event of a medical emergency or facility disaster.

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(g) All personnel, including the licensee, administrator and volunteers, shall be in good health, and shall be physically, mentally, and occupationally capable of performing assigned tasks.

(1) Except as specified in (3) below, good physical health shall be verified by a health screening, including a test for tuberculosis, performed by or under the supervision of a physician not more than one year prior to or seven days after employment or licensure.

(2) A health screening report signed by the person performing such screening shall be made on each person specified above, and shall indicate the following:

(A) The person's physical qualifications to perform the duties to be assigned.

(B) The presence of any health condition that would create a hazard to the person, clients or other staff members.

80065 PERSONNEL REQUIREMENTS (Continued) **80065**

(3) The good physical health of each volunteer who works in the facility shall be verified by:

(A) A statement signed by each volunteer affirming that he/she is in good health.

(B) A test for tuberculosis performed not more than one year prior to or seven days after initial presence in the facility.

(h) Personnel with evidence of physical illness that poses a threat to the health and safety of clients shall be relieved of their duties.

(i) Prior to employment or initial presence in the facility, all employees and volunteers subject to a criminal record review shall:

(1) Obtain a California clearance or a criminal record exemption as required by law or Department regulations or

(2) Request a transfer of a criminal record clearance as specified in Section 80019(f) or

(3) Request and be approved for a transfer of a criminal record exemption, as specified in Section 80019.1(r), unless, upon request for the transfer, the Department permits the individual to be employed, reside or be present at the facility.

(j) Clients shall not be used as substitutes for required staff but shall be permitted, as a voluntary part of their program of activities, to participate in household duties and other tasks suited to the client's needs and abilities.

(1) Such duties and tasks shall be specified in the client's needs and services plan as specified in Chapters 4, 5 and 6.

(k) When regular staff members are absent, there shall be coverage by personnel capable of performing assigned tasks as evidenced by on-the-job performance.

(l) Personnel shall provide for the care and safety of persons without physical or verbal abuse, exploitation or prejudice.

(m) All personnel shall be instructed to report observations or evidence of violations of any of the personal rights specified in Section 80072 and/or any of the personal rights provisions of Chapters 3 through 7.

(n) A licensee of a Group Home or Adult Residential Facility that has been approved by the Department to utilize secured perimeters shall comply with Health and Safety Code section 1531.15(g) and California Code of Regulations, Title 17, Division 2, Chapter 3, Subchapter 4, Article 12, Section 56071(a).

80065 PERSONNEL REQUIREMENTS (Continued) **80065**

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Health and Safety Code section 1531.15 provides in pertinent part:

(g) Secured perimeters shall not substitute for adequate staff.

California Code of Regulations, Title 17, section 56071 provides in pertinent part:

(a) The use of secured perimeters shall not substitute for adequate staff in sufficient numbers to meet the care and supervision needs of all consumers, including additional staffing as determined to be necessary by a consumer's regional center planning team.

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(o) A Group Home or Adult Residential Facility licensee that utilizes secured perimeters shall ensure that each direct care staff is trained in Emergency Intervention as required by Section 84365 for Group Homes and Section 85300 for Adult Residential Facilities.

NOTE: Authority cited: Section 1530 and 1531.15, Health and Safety Code. Reference: Sections 1501, 1522, 1531, 1531.15 and 1562, Health and Safety Code; and Section 42001, Vehicle Code.

80066 PERSONNEL RECORDS 80066

(a) The licensee shall ensure that personnel records are maintained on the licensee, administrator and each employee. Each personnel record shall contain the following information:

(1) Employee's full name.

(2) Driver's license number if the employee is to transport clients.

(3) Date of employment.

(4) A statement signed by the employee that he/she is at least 18 years of age.

(5) Home address and phone number.

(6) Documentation of the educational background, training and/or experience specified in licensing regulations for the type of facility in which the employee works.

(7) Past experience, including types of employment and former employers.

(8) Duties of the employee.

(9) Termination date if no longer employed by the facility.

(10) A health screening as specified in Section 80065(g).

(11) Tuberculosis test documents as specified in Section 80065(g).

(12) For employees that are required to be fingerprinted pursuant to Section 80019:

(A) A signed statement regarding their criminal record history as required by Section 80019(d).

80066 PERSONNEL RECORDS (Continued) **80066**

(B) Documentation of either a criminal record clearance or exemption as required by Section 80019(e).

1. For Certified Administrators, a copy of their current and valid Administrator Certification meets this requirement.

(b) Personnel records shall be maintained for all volunteers and shall contain the following:

(1) A health statement as specified in Section 80065(g)(3).

(2) Tuberculosis test documents as specified in Section 80065(g).

(3) For volunteers that are required to be fingerprinted pursuant to Section 80019:

(A) A signed statement regarding their criminal record history as required by Section 80019(d).

(B) Documentation of either a criminal record clearance or exemption as required by Section 80019(e).

(c) All personnel records shall be available to the licensing agency to inspect, audit, and copy upon demand during normal business hours. Records may be removed if necessary for copying. removal of records shall be subject to the following requirements:

(1) Licensing representatives shall not remove any current emergency and health-related information for current personnel unless the same information is otherwise readily available in another document or format.

(2) Prior to removing any records, a licensing representative shall prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.

(3) Licensing representatives shall return the records undamaged and in good order within three business days following the date the records were removed.

(d) All personnel records shall be retained for at least three years following termination of employment.

(e) All personnel records shall be maintained at the facility site.

(1) The licensee shall be permitted to retain such records in a central administrative location provided that they are readily available to the licensing agency at the facility site as specified in Section 80066(c).

(f) In all cases, personnel records shall document the hours actually worked.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

80068 ADMISSION AGREEMENTS 80068

(a) The licensee shall complete an individual written admission agreement with each client and the client's authorized representative, if any.

(1) Prior to admitting a developmentally disabled adult recommended by a Regional Center, the licensee of an ARF shall obtain from the Regional Center written certification which states that there was no objection to the placement by any persons specified in Welfare and Institutions Code Section 4803.

(2) The licensee shall maintain a copy of the certification in the client's file.

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(A) Welfare and Institutions Code, Section 4803, is paraphrased in pertinent part:

If a Regional Center recommends that a person be admitted to a community care facility as a developmentally disabled resident, the Regional Center responsible for making such recommendations shall certify in writing that neither the person recommended for admission to a community care facility, nor the parent of a minor or conservator of an adult, nor the person or agency responsible for protecting the rights of developmentally disabled persons (including Area Boards or clients' rights advocates assigned to the Regional Centers) has made an objection to the admission to the person making the recommendation. The Regional Center shall transmit the certificate or copy to the community care facility.

A community care facility shall not admit any adult as a developmentally disabled patient on recommendation of a Regional Center unless a copy of the certificate has been transmitted pursuant to this section.

Any person who, knowing that objection to a community care facility admission has been made, certifies that no objection has been made, shall be guilty of a misdemeanor.

Objections to proposed placements shall be resolved by a fair hearing procedure pursuant to Welfare and Institutions Code Section 4700.

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(b) The licensee shall complete and maintain in the client's file a Telecommunications Device Notification form (LIC 9158, 5/97) for each client whose pre-admission appraisal or medical assessment indicates he/she is deaf, hearing-impaired, or otherwise disabled.

80068 ADMISSION AGREEMENTS (Continued) **80068**

(c) Admission agreements must specify the following:

(1) Basic services.

(2) Available optional services.

(3) Payment provisions, including the following:

(A) Basic rate.

(B) Optional services rates.

(C) Payor.

(D) Due date.

(E) Frequency of payment.

(4) Modification conditions, including requirement for provision of at least 30 calendar days prior written notice to the client or his/her authorized representative of any basic rate change.

(A) It shall be acceptable for agreements involving clients whose care is funded at government-prescribed rates to specify that the effective date of a government rate change shall be considered the effective date for basic service rate modifications and that no prior notice is necessary.

(5) Refund conditions.

(6) Right of the licensing agency to perform the duties authorized in Section 80044(b) and (c).

(7) Conditions under which the agreement may be terminated.

(A) The client's refusal to cooperate with the licensee's implementation of his/her Restricted Health Condition Care Plan as specified in Section 80092.2, if any, and his/her Needs and Services Plan, as specified in Section 80068.2 or 80068.3, must be one of the conditions.

80068 ADMISSION AGREEMENTS (Continued) **80068**

(8) The facility's policy concerning family visits and other communication with clients, pursuant to Health and Safety Code Section 1512.

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(A) Section 1512 of the Health and Safety Code provides that:

This policy shall be designed to encourage regular family involvement with the client and shall provide ample opportunities for family participation in activities at the facility.

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(9) If the client in an ARF has a restricted health condition, as specified in Section 80092, the admission agreement must contain a statement that he/she agrees to comply with the Restricted Health Condition Care Plan developed for him/her as specified in Section 80092.2.

(10) Repealed by Manual Letter No. CCL-98-05, effective 10/1/98.

(d) A licensee of a Group Home or Adult Residential Facility that has been approved to utilize secured perimeters shall ensure that the client's admission agreements contain written consent agreeing to the placement when the client has not been court ordered to be placed in a facility with secured perimeters.

(1) Written consent shall be signed by a non-conserved resident, 18 or older, or, as appropriate, the resident's conservator or other person with legal authority and shall contain the following:

(A) A description of the location and manner in which the perimeter will be secured.

(B) A statement that the facility has delayed egress devices of the time delay type and the perimeter fence is locked.

(C) A statement that consent may be withdrawn at any time, pursuant to Section 80072(c).

(e) Such agreements shall be dated and signed, acknowledging the contents of the document, by the client and the client's authorized representative and the licensee or the licensee's designated representative, no later than seven calendar days following admission.

(f) Modifications to the original agreement shall be made whenever circumstances covered in the agreement change, and shall be dated and signed by the persons specified in (c) above.

80068 ADMISSION AGREEMENTS (Continued) **80068**

(g) The licensee shall retain in the client's file the original of the initial admission agreement and all subsequent modifications.

(1) The licensee shall provide a copy of the current admission agreement to the client and the client's authorized representative, if any.

(h) The licensee shall comply with all terms and conditions set forth in the admission agreement.

(i) The admission agreement shall be automatically terminated by the death of the client. No liability or debt shall accrue after the date of death.

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(1) This does not preclude contractual arrangements such as life care contracts or payments ordered by a court of competent jurisdiction.

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NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, 1512, 1524.7, and 1531, Health and Safety Code; and Section 4803, Welfare and Institutions Code.

80068.2 NEEDS AND SERVICES PLAN **80068.2**

(a) The licensee shall complete a Needs and Services Plan for each client as required in Sections 81068.2, 82068.2, 82568.2, 84068.2, or 85068.2.

(b) If the client has an existing needs appraisal or individual program plan (IPP) completed by a placement agency, or a consultant for the placement agency, the Department may consider the plan to meet the requirements of this section provided that:

(1) The needs appraisal or IPP is not more than one year old.

(2) The licensee and the placement agency agree that the client's physical, mental and emotional status has not significantly changed since the assessment.

(c) The written Needs and Services Plan specified in Section 80068.2(a), shall be maintained in the client's file.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, and 1531, Health and Safety Code.

80068.3 MODIFICATIONS TO NEEDS AND SERVICES PLAN 80068.3

(a) The licensee shall ensure that each client's written Needs and Services Plan is updated as often as necessary to assure its accuracy, but at least annually. These modifications shall be maintained in the client's file.

(b) If the licensee determines that the client's needs cannot be met, the licensee shall inform the client, and his/her authorized representative, if any, and the placement agency, if any, and request that the client relocate to a facility that can provide the needed services.

(1) If the client refuses to relocate, the licensee may evict the client in accordance with Section 80068.5.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, and 1531, Health and Safety Code.

80068.5 EVICTION PROCEDURES 80068.5

(a) Except for children's residential facilities, the licensee may, upon 30 days written notice to the client, evict the client only for one or more of the following reasons:

(1) Nonpayment of the rate for basic services within ten days of the due date.

(2) Failure of the client to comply with state or local law after receiving written notice of the alleged violation.

(3) Failure of the client to comply with general facility policies that are documented in the facility admission agreement, and are for the purpose of making it possible for clients to live together.

(4) Inability to meet the client's needs.

(A) A Needs and Services Plan modification must have been performed, as specified in Section 80068.3(a), which determined that the client's needs cannot be met by the facility and the client has been given the opportunity to relocate as specified in Section 80068.3(b).

(5) The client refuses to comply with his/her Restricted Health Condition Care Plan, if any, as specified in Section 80092.2.

80068.5 EVICTION PROCEDURES 80068.5
(Continued)

(6) Change of use of the facility.

(b) The licensee shall obtain prior written approval from the Department to evict the client upon three (3) days written notice to quit and upon a finding of good cause.

(1) Good cause exists if the client engages in behavior that threatens the mental and/or physical health or safety of himself/herself or others in the facility.

(2) Failure of the Department to reply to the request for approval within two working days shall be considered approval.

(c) The notice to quit shall state the reasons for the eviction, with specific facts supporting the reason for the eviction including the date, place, witnesses, if any, and circumstances.

(d) When serving the client with either a 30-day or a 3-day notice to quit, the licensee shall, on the same day, overnight mail or fax a copy of the notice to the client's authorized representative, if any or responsible person if there is no authorized representative.

(e) The licensee shall mail or fax to the Department a copy of the 30-day written notice in accordance with (a) above within five days of giving the notice to the client.

(f) Upon request of a client or his/her authorized representative or responsible person, the Department will investigate the reasons for the eviction pursuant to the provisions of Sections 1538 and 1569.35 of the Health and Safety Code.

(g) Nothing in this section precludes the licensee or client from invoking any other available remedy.

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(1) Such remedies include voluntary relocation, relocation by the client's authorized representative, hospitalization for mental or physical conditions, and arrest.

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NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1531, and 1770, et seq., Health and Safety Code.

80069 CLIENT MEDICAL ASSESSMENTS 80069

(a) Except for licensees of ARFs, prior to or within 30 calendar days following the acceptance of a client, the licensee shall obtain a written medical assessment of the client, as specified in Section 80069(c), which enables the licensee to determine his/her ability to provide necessary health related services to the client. The assessment shall be used in developing the Needs and Services Plan.

(1) The assessment shall be performed by a licensed physician or designee, who is also a licensed professional, and the assessment shall not be more than one year old when obtained.

(b) In ARFs, prior to accepting a client into care, the licensee shall obtain and keep on file documentation of the client's medical assessment.

(1) Such assessment shall be performed by a licensed physician, or designee, who is also a licensed professional, and the assessment shall not be more than one year old when obtained.

(c) The medical assessment shall include the following:

(1) The results of an examination for communicable tuberculosis and other contagious/infectious diseases.

(2) Identification of the client's special problems and needs.

(3) Identification of any prescribed medications being taken by the client.

(4) A determination of the client's ambulatory status, as defined by Section 80001(n)(2).

(5) Identification of physical restrictions, including any medically necessary diet restrictions, to determine the client's capacity to participate in the licensee's program.

(d) In addition to Section 80069(c), the medical assessment for clients in ARFs shall include the following:

(1) A physical examination of the person, indicating the physician's primary diagnosis and secondary diagnosis, if any.

(2) Identification of other medical conditions, including those described in Section 80092 which are restricted and Section 80091, which would preclude care of the person by the licensee.

(3) Documentation of prior medical services and history.

(4) Current medical status including, but not limited to, height, weight, and blood pressure.

(5) Identification of the client's needs as a result of any medical information contained in the report.

80069 CLIENT MEDICAL ASSESSMENTS 80069
(Continued)

(e) The licensing agency shall have the authority to require the licensee to obtain a current written medical assessment, if such an assessment is necessary to verify the appropriateness of a client's placement.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, 1530, and 1531, Health and Safety Code.

80069.2 FUNCTIONAL CAPABILITIES ASSESSMENT 80069.2

(a) In order to determine whether the facility's program meets a client's services needs, the licensee of an ARF shall assess the client's need for personal assistance and care by determining his/her functional capabilities. The assessment shall be in writing, shall be used in developing the Needs and Service Plan, and shall include, but not be limited to the following activities:

(1) Bathing:

(A) Does not bathe or shower self.

(B) Performs some bathing or showering tasks.

(C) Bathes or showers self independently.

(2) Dressing:

(A) Does not dress self.

(B) Puts on some clothing by self.

(C) Dresses self completely.

80069.2 FUNCTIONAL CAPABILITIES ASSESSMENT **80069.2**
(Continued)

(3) Grooming:

(A) Does not tend to own personal hygiene.

(B) Tends to some personal hygiene tasks.

(C) Tends to own personal hygiene.

(4) Toileting:

(A) Not toilet trained.

(B) Does not toilet by self.

(C) Goes to toilet by self.

(5) Transferring:

(A) Unable to move in and out of a bed or chair.

(B) Needs assistance to transfer.

(C) Is able to move in and out of a bed or chair.

(6) Repositioning:

(A) Unable to reposition.

(B) Repositions from side to side.

(C) Repositions from front to back and back to front.

(7) Wheelchair:

(A) Unable to sit without support.

(B) Sits without support.

80069.2 FUNCTIONAL CAPABILITIES ASSESSMENT 80069.2
(Continued)

(C) Needs assistance moving wheelchair.

(D) Moves wheelchair independently.

(E) Does not use wheelchair.

(8) Continence:

(A) No bowel and/or bladder control.

(B) Some bowel and/or bladder control.

(C) Use of assistive devices, such as a catheter.

(D) Complete bowel and/or bladder control.

(9) Eating:

(A) Does not feed self.

(B) Feeds self with assistance from another person.

(C) Feeds self completely.

(b) Assessment of the client's need for assistance shall include consideration of his/her physical condition affecting participation in his/her own care, including:

(1) Vision:

(A) Severe/ profound impairment.

(B) Mild/moderate impairment.

(C) No vision impairment.

80069.2 FUNCTIONAL CAPABILITIES ASSESSMENT **80069.2**
(Continued)

(2) Hearing:

(A) Severe/ profound loss.

(B) Mild/moderate loss.

(C) No hearing loss.

(3) Communication:

(A) Does not express nonverbally.

(B) Does not express verbally.

(C) Expresses by sounds or movements.

(D) Expresses self well, both verbally and nonverbally.

(4) Walking:

(A) Does not walk.

(B) Walks with support.

(C) Walks well alone.

(5) Medical history and conditions.

(6) Need for prescribed and non-prescribed medications.

(c) Assessment of the client's need for assistance and care shall include consideration of the following:

(1) Mental and emotional conditions.

(A) Repealed by Manual Letter No. CCL-98-05, effective 10/1/98.

80069.2 FUNCTIONAL CAPABILITIES ASSESSMENT 80069.2
(Continued)

(2) Socialization and cognitive status.

(3) Propensity for behaviors that result in harm to self or others and that require supervision.

(4) Ability to manage his/her own finances and cash resources.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1250, 1501, 1502, 1507, 1530, 1531, 1557.5, Health and Safety Code.

80069.3 MENTAL HEALTH ASSESSMENT 80069.3

Renumbered to Group Homes, Section 85069.3 by CCL-98-09, effective 10/1/98.

80070 CLIENT RECORDS 80070

(a) The licensee shall ensure that a separate, complete, and current record is maintained in the facility for each client.

(b) Each record must contain information including, but not limited to, the following:

(1) Name of client.

(2) Birthdate.

(3) Sex.

(4) Date of admission.

(5) Names, addresses, and telephone numbers of the authorized representative.

(6) A signed copy of the admission agreement specified in Section 80068.

(7) Name, address and telephone number of physician and dentist, and other medical and mental health providers, if any.

(8) Medical assessment, including ambulatory status, as specified in Section 80069.

(9) Record of any illness or injury requiring treatment by a physician or dentist and for which the facility provided assistance to the client in meeting his/her necessary medical and dental needs.

(10) Record of current medications, including the name of the prescribing physician, and instructions, if any, regarding control and custody of medications.

(11) Restricted Health Condition Care Plan, if required for the client by Section 80092.2.

(12) Functional assessment as specified in Section 80069.2.

(13) Date of termination of services.

(14) An account of the client's cash resources, personal property, and valuables entrusted as specified in Section 80026.

(c) All information and records obtained from or regarding clients shall be confidential.

(1) The licensee shall be responsible for safeguarding the confidentiality of record contents.

(2) Except as specified in (d) below, or as otherwise authorized by law, the licensee and all employees shall not reveal or make available confidential information.

80070 CLIENT RECORDS (Continued) **80070**

(d) All client records shall be available to the licensing agency to inspect, audit, and copy upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the following requirements:

(1) Licensing representatives shall not remove the following current records for current clients unless the same information is otherwise readily available in another document or format:

(A) Name, address, and telephone number of the authorized representative(s) as specified in Section 80070(b)(5).

(B) Name, address, and telephone number of a client's physician and dentist, and any other medical and mental health providers, as specified in Section 80070(b)(7).

(C) Medical assessment, including ambulatory status, as specified in Section 80070(b)(8).

(D) Record of any current illness or injury as specified in Section 80070(b)(9).

(E) Record of current medications as specified in Section 80070(b)(10).

(F) Restricted Health Condition Care Plan as specified in Section 80070(b)(11).

(G) Functional assessment as specified in Section 80070(b)(12).

(H) Any other records containing current emergency or health-related information for current clients.

(2) Prior to removing any records, a licensing representative shall prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.

(3) Licensing representatives shall return the records undamaged and in good order within three business days following the date the records were removed.

(e) A client's records shall be open to inspection by the client's authorized representative(s), if any.

(f) The information specified in (b)(1)-(b)(15) above must be updated as necessary to ensure the accuracy of the client's record.

(g) Original client records or photographic reproductions shall be retained for at least three years following termination of service to the client.

80070 CLIENT RECORDS (Continued) **80070**

(h) A licensee of a Group Home or Adult Residential Facility that has been approved to utilize secured perimeters shall meet the requirements of the California Code of Regulations, Title 17, Division 2, Chapter 3, Subchapter 4, Article 12, Sections 56073(b), (c), (e), (m) and Sections 56071(b) through (b)(2).

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California Code of Regulations, Title 17, Section 56073(b) provides in pertinent part:

(b) Prior to placement in a facility utilizing secured perimeters, the regional center shall obtain either a court order authorizing the placement or written consent agreeing to the placement. These documents shall be provided to the residential service provider and maintained in the regional center's records required by Section 56060.

(1) The written consent shall be signed by:

(A) A non-conserved consumer, 18 or older, or, as appropriate, the consumer's conservator or other person with legal authority, or

(B) For a consumer under 18 years of age, by the person having the legal authority to place the consumer in the facility using secured perimeter.

(2) The written consent shall include:

(A) A description of the location and manner in which the perimeter will be secured.

(B) A statement that the facility has delayed egress devices of the time delay type and the perimeter fence is locked.

(C) A statement that consent may be withdrawn at any time.

(c) The following shall be maintained in the consumer's file at the facility required by Section 56059:

(1) The court order or written consent required under subdivision (b).

(2) Documentation of the date and time of any withdrawal of consent.

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80070 CLIENT RECORDS (Continued) **80070**

HANDBOOK CONTINUES

(d) If the consumer's placement is pursuant to a court order, the consumer may remain in the facility upon expiration of the order only if it is determined that he or she meets the admission and continued stay requirements of this section and consent is obtained as provided in (b)(1).

(e) . . . The IPP shall include a plan to transition the consumer to a less restrictive setting. A copy of those portions of the current IPP related to the residential placement and community services and supports, including the transition plan, shall be maintained in the consumer's record at the facility.

. . .

(m) If the individual who signed the consent form for placement pursuant to subdivision (b) informs the licensee or the regional center that he or she withdraws his or her consent to the placement, the following shall occur:

(1) Upon notification of the withdrawal of consent, the licensee shall immediately inform the regional center, or the regional center shall immediately inform the licensee, as applicable.

(2) The licensee and the regional center shall document the withdrawal of consent in the consumer's records maintained, respectively, by the facility and the regional center.

(3) The licensee shall inform the consumer, verbally and in writing, of his or her right not to be subject to the secured perimeter, in accord with procedures established pursuant to Section 56070(a)(2)(E).

California Code of Regulations, Title 17, Section 56071 provides in pertinent part:

(b) The licensee or applicant shall maintain one of the following documents in the consumer's individual consumer file maintained by the facility:

(1) The written consent for placement, described in paragraph (1) of subdivision (b) of Section 56073.

(2) A court order authorizing placement of the consumer in a non-state-operated facility utilizing secured perimeters.

HANDBOOK ENDS HERE

80070 CLIENT RECORDS (Continued) **80070**

(1) If the informed consent agreeing to the placement in a facility is signed by a client's legally authorized representative, the licensee shall obtain documentation showing that the authorized representative is legally entitled to act on behalf of the client, in this regard, including but not limited to any court order authorizing the individual to act on the client's behalf.

(i) In addition to these requirements, a licensee of a Group Home or Adult Residential Facility that has been approved to utilize secured perimeters shall ensure that the documents required by Title 17, Section 56073 are maintained in the client record.

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California Code of Regulations, Title 17, Section 56073(a) provides in pertinent part:

(a) Prior to an admission to an adult residential facility or group home utilizing secured perimeters, the regional center shall conduct a comprehensive assessment and convene a planning team meeting to determine whether the consumer lacks hazard awareness or impulse control and requires the level of supervision afforded by a facility equipped with secured perimeters and delayed egress devices. The planning team's determination shall be documented in the client record.

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1530 and 1531.15, Health and Safety Code. Reference: Sections 1501, 1507, 1531 and 1531.15, Health and Safety Code.

80071 REGISTER OF CLIENTS 80071

(a) In all licensed facilities, the following shall apply:

(1) The licensee shall maintain in the facility a register of all clients. The register shall be immediately available to, and copied for, licensing staff upon request; and must contain current information on the following:

(A) Client's name and ambulatory status as specified in Section 80070(b)(1) and (8).

(B) Name, address and telephone number of client's attending physician.

(C) Authorized representative information as specified in Section 80070(b)(5).

(D) Client's restricted health condition(s) specified in Section 80092(b).

1. The licensee may keep a separate client register with this information.

(2) The licensee shall keep the register in a central location at the facility.

(A) Registers are confidential, as specified in Section 80070(c).

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1507 and 1557.5, Health and Safety Code.

80072 PERSONAL RIGHTS 80072

(a) Except for children's residential facilities, each client shall have personal rights which include, but are not limited to, the following:

(1) To be accorded dignity in his/her personal relationships with staff and other persons.

(2) To be accorded safe, healthful and comfortable accommodations, furnishings and equipment to meet his/her needs.

(3) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature, including but not limited to: interference with the daily living functions, including eating, sleeping, or toileting; or withholding of shelter, clothing, medication or aids to physical functioning.

(4) To be informed, and to have his/her authorized representative, if any, informed, by the licensee of the provisions of law regarding complaints including, but not limited to, the address and telephone number of the complaint receiving unit of the licensing agency, and of information regarding confidentiality.

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(A) Provisions regarding inspection requests are found in Health and Safety Code Section 1538:

1. Any person may request an inspection of any community care facility in accordance with the provisions of this chapter by transmitting to the state department notice of an alleged violation of applicable requirements prescribed by statutes or regulations of this state....

2. The substance of the complaint shall be provided to the licensee no earlier than at the time of the inspection....

HANDBOOK CONTINUES

80072 PERSONAL RIGHTS (Continued) **80072**

HANDBOOK CONTINUES

3. Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint. In either event, the complainant shall be promptly informed of the state department's proposed course of action.

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(5) To be free to attend religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice.

(A) Attendance at religious services, in or outside of the facility, shall be on a completely voluntary basis.

(6) To leave or depart the facility at any time.

(A) The licensee shall not be prohibited by this provision from setting curfews or other house rules for the protection of clients.

(B) This provision shall not apply to minors and other clients for whom a guardian, conservator, or other legal authority has been appointed.

(7) Not to be locked in any room, building, or facility premises by day or night.

(A) The licensee shall not be prohibited by this provision from locking exterior doors and windows or from establishing house rules for the protection of clients provided the clients are able to exit the facility.

(B) The licensee shall be permitted to utilize means other than those specified in (A) above for securing exterior doors and windows only with the prior approval of the licensing agency.

80072 PERSONAL RIGHTS (Continued) **80072**

(8) Not to be placed in any restraining device. Postural supports may be used under the following conditions.

(A) Postural supports shall be limited to appliances or devices including braces, spring release trays, or soft ties, used to achieve proper body position and balance, to improve a client's mobility and independent functioning, or to position rather than restrict movement including, but not limited to, preventing a client from falling out of bed, a chair, etc.

1. Physician-prescribed orthopedic devices such as braces or casts used for support of a weakened body part or correction of body parts are considered postural supports.

(B) A written order from the client's physician indicating the need for the postural support shall be maintained in the client's record. The licensing agency shall be authorized to require additional documentation if needed to verify the order.

(C) Postural supports shall be fastened or tied in a manner that permits quick release by the client.

(D) Prior to the use of postural supports that cause the client to become non-ambulatory, the licensee shall ensure that a fire clearance, as required by Section 80020, has been secured.

(E) Under no circumstances shall postural supports include tying of, or depriving or limiting the use of, a client's hands or feet.

1. A bed rail that extends from the head half the length of the bed and used only for assistance with mobility shall be allowed. Bed rails that extend the entire length of the bed are prohibited except for clients who are currently receiving hospice care and have a hospice care plan that specifies the need for full bed rails.

80072 PERSONAL RIGHTS (Continued) **80072**

(F) Protective devices including, but not limited to, helmets, elbow guards, and mittens which do not prohibit a client's mobility but rather protect the client from self-injurious behavior are not to be considered restraining devices for the purpose of this regulation. Protective devices may be used if they are approved in advance by the licensing agency as specified below.

1. All requests to use protective devices shall be in writing and include a written order of a physician indicating the need for such devices. The licensing agency shall be authorized to require additional documentation including, but not limited to, the Individual Program Plan (IPP) as specified in Welfare and Institutions Code Section 4646, and the written consent of the authorized representative, in order to evaluate the request.

2. The licensing agency shall have the authority to grant conditional and/or limited approvals to use protective devices.

(9) To receive or reject medical care, or health-related services, except for minors and other clients for whom a guardian, conservator, or other legal authority has been appointed.

(10) To be informed of the facility's policy concerning family visits and other communication with clients, as specified in Health and Safety Code Section 1512.

(b) Section 1531.15(j) of the Health and Safety Code shall apply to a licensee of a Group Home or Adult Residential Facility that has received approval from the Department for the use secured perimeters.

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Health and Safety Code section 1531.15 provides in pertinent part:

(j) For the purpose of using secured perimeters, the licensee shall not be required to obtain a waiver or exception to a regulation that would otherwise prohibit the locking of a perimeter fence or gate.

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(c) In the event the a licensee of a Group Home or Adult Residential Facility is using secured perimeters and a written consent has been obtained for a client agreeing to the placement in the facility using secured perimeters, the client or, as appropriate, the consumer's conservator or other person with legal authority, shall have the right to withdraw the written consent at any time.

(1) If consent is revoked then the client shall not be subject to secured perimeters.

80072 PERSONAL RIGHTS (Continued) **80072**

(b) At admission, a client and the client's authorized representative shall be personally advised of and given a list of the rights specified in Sections 80072(a) (1) through (10) and in the applicable Personal Rights sections of Chapters 2 through 7.

(c) The information specified in (b) above including the visiting policy as stated in the admissions agreement shall be prominently posted in areas accessible to clients and their visitors.

(d) The licensee shall ensure that each client is accorded the personal rights as specified in this section and the applicable sections of Chapters 2 through 7.

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(A) Section 1512 of the Health and Safety Code provides that:

The policy shall be designed to encourage regular family involvement with the client and shall provide ample opportunities for family participation in activities at the facility.

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1530 and 1531.15, Health and Safety Code. Reference: Sections 1501, 1531 and 1531.15, Health and Safety Code.

80073 TELEPHONES **80073**

(a) All facilities shall have telephone service on the premises.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1528, 1531 and 1539, Health and Safety Code.

80074 TRANSPORTATION **80074**

(a) Only drivers licensed for the type of vehicle operated shall be permitted to transport clients.

(b) The manufacturer's rated seating capacity of the vehicles shall not be exceeded.

(c) Motor vehicles used to transport clients shall be maintained in a safe operating condition.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1528 and 1531, Health and Safety Code.

80075 HEALTH-RELATED SERVICES 80075

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This section does not apply to child care centers. For regulations governing health-related services in child care centers, see Chapter 2, Section 81075.

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(a) The licensee shall ensure that each client receives necessary first aid and other needed medical or dental services, including arrangement for and/or provision of transportation to the nearest available services.

(b) Clients shall be assisted as needed with self-administration of prescription and nonprescription medications.

(1) In adult CCFs, facility staff who receive training may assist clients with metered-dose inhalers, and dry powder inhalers if the following requirements are met:

(A) In ARFs, facility staff must receive training from a licensed professional.

1. The licensee shall obtain written documentation from the licensed professional outlining the procedures and the names of facility staff who have been trained in those procedures.

2. The licensee ensures that the licensed professional reviews staff performance as the licensed professional deems necessary, but at least once a year.

(B) All staff training shall be documented in the facility personnel files.

(2) Facility staff, except those authorized by law, shall not administer injections but staff designated by the licensee shall be authorized to assist clients with self-administration of injections as needed.

80075 HEALTH-RELATED SERVICES (Continued) **80075**

(3) Assistance with self-administration does not include forcing a client to take medications, hiding or camouflaging medications in other substances without the client's knowledge and consent, or otherwise infringing upon a client's right to refuse to take a medication.

(4) If the client's physician has stated in writing that the client is able to determine and communicate his/her need for a prescription or nonprescription PRN medication, facility staff shall be permitted to assist the client with self-administration of their PRN medication.

(5) If the client's physician has stated in writing that the client is unable to determine his/her own need for nonprescription PRN medication, but can communicate his/her symptoms clearly, facility staff designated by the licensee shall be permitted to assist the client with self-administration, providing all of the following requirements are met:

(A) There is a written direction from a physician, on a prescription blank, specifying the name of the client, the name of the medication, all of the information specified in Section 80075(e), instructions regarding a time or circumstance (if any) when it should be discontinued, and an indication of when the physician should be contacted for a medication reevaluation.

(B) Once ordered by the physician the medication is given according to the physician's directions.

(C) A record of each dose is maintained in the client's record. The record shall include the date and time the PRN medication was taken, the dosage taken, and the client's response.

(6) If the client is unable to determine his/her own need for a prescription or nonprescription PRN medication, and is unable to communicate his/her symptoms clearly, facility staff designated by the licensee, shall be permitted to assist the client with self-administration, provided all of the following requirements are met:

(A) Facility staff shall contact the client's physician prior to each dose, describe the client's symptoms, and receive direction to assist the client in self-administration of that dose of medication.

(B) The date and time of each contact with the physician, and the physician's directions, shall be documented and maintained in the client's facility record.

(C) The date and time the PRN medication was taken, the dosage taken, and the client's response, shall be documented and maintained in the client's facility record.

80075 HEALTH-RELATED SERVICES (Continued) **80075**

(7) For every prescription and nonprescription PRN medication for which the licensee provides assistance, there shall be a signed, dated written order from a physician on a prescription blank, maintained in the client's file, and a label on the medication. Both the physician's order and the label shall contain at least all of the following information.

(A) The specific symptoms which indicate the need for the use of the medication.

(B) The exact dosage.

(C) The minimum number of hours between doses.

(D) The maximum number of doses allowed in each 24-hour period.

(c) The isolation room or area specified in Section 80087(d) shall be used where separation from others is required.

(d) There shall be privacy for first aid treatment of minor injuries and for examination or treatment by a physician if required.

(e) In adult CCFs, when a client requires oxygen the licensee is responsible for the following:

(1) Monitoring the client's ongoing ability to operate and care for the equipment in accordance with the physician's instructions, or if the client is unable to do so:

(A) Ensuring that an adequate number of facility staff persons are designated to operate and care for the equipment and that those staff persons receive training.

1. The licensee shall comply with all of the requirements for training in Sections 80075(b)(1)(A) through (C).

(2) Ensuring that the following conditions are met if oxygen equipment is in use:

(A) The licensee makes a written report to the local fire jurisdiction that oxygen is in use at the facility.

(B) "No Smoking - Oxygen in Use" signs shall be posted in appropriate areas.

(C) Smoking is prohibited where oxygen is in use.

(D) All electrical equipment is checked for defects that may cause sparks.

(E) Oxygen tanks that are not portable are secured either in a stand or to the wall.

80075 HEALTH-RELATED SERVICES (Continued) **80075**

(F) Plastic tubing from the nasal canula (mask) to the oxygen source is long enough to allow the client movement within his/her room but does not constitute a hazard to the client or others.

(G) Clients use oxygen from a portable source when they are outside of their rooms or when walking in a day care setting.

(H) Equipment is operable.

(I) Facility staff have knowledge and ability to operate and care for the oxygen equipment.

(J) Equipment is removed from the facility when no longer in use by the client.

(f) Staff responsible for providing direct care and supervision shall receive training in first aid from persons qualified by agencies including but not limited to the American Red Cross.

(g) If the facility has no medical unit on the grounds, first aid supplies shall be maintained and be readily available in a central location in the facility.

(1) The supplies shall include at least the following:

(A) A current edition of a first aid manual approved by the American Red Cross, the American Medical Association or a state or federal health agency.

(B) Sterile first aid dressings.

(C) Bandages or roller bandages.

(D) Adhesive tape.

(E) Scissors.

(F) Tweezers.

(G) Thermometers.

(H) Antiseptic solution.

(h) There shall be at least one person capable of and responsible for communicating with emergency personnel in the facility at all times. The following information shall be readily available:

80075 HEALTH-RELATED SERVICES (Continued) **80075**

(1) The name, address and telephone number of each client's physician and dentist, and other medical and mental health providers, if any.

(2) The name, address and telephone number of each emergency agency, including but not limited to the fire department, crisis center or paramedical unit. There shall be at least one medical resource available to be called at all times.

(3) The name and telephone number of an ambulance service.

HANDBOOK BEGINS HERE

(4) It is recommended that the licensee obtain consent forms to permit the authorization of medical care.

HANDBOOK ENDS HERE

(i) When a client requires prosthetic devices, or vision or hearing aids, the staff shall be familiar with the use of these devices and aids and shall assist the client with their utilization as needed.

(j) Medications shall be centrally stored under the following circumstances:

(1) Preservation of the medication requires refrigeration.

(2) Any medication determined by the physician to be hazardous if kept in the personal possession of the client for whom it was prescribed.

(3) Because of physical arrangements and the condition or the habits of persons in the facility, the medications are determined by either the administrator or by the licensing agency to be a safety hazard.

(k) The following requirements shall apply to medications which are centrally stored:

(1) Medication shall be kept in a safe and locked place that is not accessible to persons other than employees responsible for the supervision of the centrally stored medication.

(2) Each container shall identify the items specified in (7)(A) through (G) below.

(3) All medications shall be labeled and maintained in compliance with label instructions and state and federal laws.

(4) No person other than the dispensing pharmacist shall alter a prescription label.

80075 HEALTH-RELATED SERVICES (Continued) **80075**

(5) Each client's medication shall be stored in its originally received container.

(6) No medications shall be transferred between containers.

(7) The licensee shall ensure the maintenance, for each client, of a record of centrally stored prescription medications which is retained for at least one year and includes the following:

(A) The name of the client for whom prescribed.

(B) The name of the prescribing physician.

(C) The drug name, strength and quantity.

(D) The date filled.

(E) The prescription number and the name of the issuing pharmacy.

(F) Expiration date.

(G) Number of refills.

(H) Instructions, if any, regarding control and custody of the medication.

(l) Prescription medications which are not taken with the client upon termination of services, or which are not to be retained shall be destroyed by the facility administrator, or a designated substitute, and one other adult who is not a client.

(1) Both shall sign a record, to be retained for at least one year, which lists the following:

(A) Name of the client.

(B) The prescription number and the name of the pharmacy.

(C) The drug name, strength and quantity destroyed.

(D) The date of destruction.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, 1530 and 1531, Health and Safety Code.

80075.1 AUTOMATED EXTERNAL DEFIBRILLATORS (AEDS) 80075.1

(a) In an adult community care facility, a licensee is permitted to maintain and operate an AED at the facility if all of the following requirements are met:

(1) The licensee shall notify the licensing agency in writing that an AED is in the facility and will be used in accordance with all applicable federal and other state requirements.

(2) The AED shall be used in accordance with all applicable federal and other state requirements.

(3) The licensee shall maintain at the facility the following:

(A) A copy of the required physician's prescription for the AED.

(B) A training manual from an American Heart Association- or American Red Cross-recognized AED training class.

(C) A log of checks of operation of the AED containing the dates checked and the name of person checking.

(D) A copy of a valid AED operator's certificate for any employee(s) authorized by the licensee to operate the AED. The certificate shall indicate that the AED training course completed complies with the standards of the American Heart Association or the American Red Cross. If it does not, then other evidence indicating that the AED training course completed complies with the standards of the American Heart Association or the American Red Cross shall be available at the facility.

(E) A log of quarterly proficiency demonstrations for each holder of an AED operator's certificate who is authorized by the licensee to operate the AED. The log shall contain the dates of the demonstrations and the manner of demonstration.

80075.1 AUTOMATED EXTERNAL DEFIBRILLATORS (AEDS) 80075.1
(Continued)

(4) A supply kit shall be maintained at the facility and be readily available for use with the AED. The kit shall contain at least the following:

(A) A back-up battery set.

(B) An extra set of pads.

(C) A safety razor for shaving chest hair when necessary to apply the pads.

(D) A cardiovascular pulmonary resuscitation barrier (a face shield or mask) for protection from transmission of infectious disease.

(E) Two pairs of unused medical examination gloves (latex or non-latex).

(5) Use of an AED shall be reported as specified in Section 80061.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, 1530, 1531, and 1797.196, Health and Safety Code.

80076 FOOD SERVICE 80076

(a) In facilities providing meals to clients, the following shall apply:

(1) All food shall be safe and of the quality and in the quantity necessary to meet the needs of the clients. Each meal shall meet at least 1/3 of the servings recommended in the USDA Basic Food Group Plan - Daily Food Guide for the age group served. All food shall be selected, stored, prepared and served in a safe and healthful manner.

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(A) USDA BASIC FOOD GROUP PLAN DAILY FOOD GUIDE

FOODS TO INCLUDE DAILY	SERVING SIZE	RECOMMENDED NUMBER OF SERVINGS FOR EACH AGE GROUP					
		PRE-SCHOOL CHILD	SCHOOL-AGE CHILD	TEEN-AGER	ADULT	PREG-NANT NURSING	OLDER ADULT
MILK & MILK PRODUCTS							
milk	8 oz.						
yogurt	8 oz.						
cheese	2 oz.	2	2-3	3-4	2	3 or	2
cottage	1&1/2 C			or more		more	
ice cream	2 C						
tofu	8 oz.						
MEAT & ALTERNATES							
beef, pork, lamb, fowl, fish	3 oz.						
small serv.	1&1/2 oz.						
Alternates for meat	eq. to 2-3 oz.	2 sm	1-2	2-3 or more	2	2 or more	2
beans, peas and lentils	1-1&1/2 C						
peanut butter	4-6 Tbsp.						
eggs	2-3						
cheese	2-3 oz.						
cottage	1/2-3/4 C						
canned fish	1/2-3/4 C						
nuts	2/3-1 C						
tofu	6-9 oz.						
wheat germ	1/2-3/4 C						
sunflower, pumpkin, & sesame seeds	1/2-3/4 C						
DEEP GREEN AND/OR YELLOW VEGETABLES	1/2 C		1	1 or	1	1 or	1
small serving	1/4-1/3 C	1 sm		more		more	

HANDBOOK CONTINUES

80076 FOOD SERVICE (Continued) **80076**

HANDBOOK CONTINUES

(A) USDA BASIC FOOD GROUP PLAN DAILY FOOD GUIDE

FOODS TO INCLUDE DAILY	SERVING SIZE	RECOMMENDED NUMBER OF SERVINGS FOR EACH AGE GROUP					
		PRE-SCHOOL CHILD	SCHOOL-AGE CHILD	TEEN-AGER	ADULT	PREG-NANT NURSING	OLDER ADULT
OTHER VEGETABLES, JUICES AND FRUITS small serving	1/2 C 1/4-1/3 C	2 sm	2	2 or more	2	2 or more	2
HIGH VITAMIN C FRUITS AND/OR JUICES, sm serv.	1/2 C 1/4-1/3 C	1 sm	1	1 or more	1	1 or more	1
BREADS & CEREALS (whole gr. or enriched) bread	1 slice						
dry cereal	3/4 C						
cooked cereal, rice, noodles	1/2 C						
crackers	4	4 sm	3-4	4 or more	4	4 or more	3-4
tortilla small serv = 1/2 of the serv sizes for breads & cereals	1 med						
OTHER FOODS: inc. fats, sweets, desserts, etc.		AS APPROPRIATE TO ENERGY NEEDS					
FLUIDS: inc. water		AS APPROPRIATE TO NEEDS					
MISCELLANEOUS: iodized salt, fiber, vitamin supplement, etc.		AS APPROPRIATE TO NEEDS					

*Count cheese as one serving of milk or meat, not both. Adapted from the OREGON DIET MANUAL, fifth edition, 1975, State of Oregon Department Human Resources.

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80076 FOOD SERVICE (Continued) **80076**

(2) Where all food is provided by the facility, arrangements shall be made so that each client has available at least three meals per day.

(A) Not more than 15 hours shall elapse between the third meal of one day and first meal of the following day.

(3) Where meal service within a facility is elective, arrangements shall be made to ensure availability of a daily food intake meeting the requirement of (a) (1) above for all clients who, in their admission agreement, elect meal service.

(4) Between meal nourishment or snacks shall be available for all clients unless limited by dietary restrictions prescribed by a physician.

(5) Menus shall be written at least one week in advance and copies of the menus as served shall be dated and kept on file for at least 30 days. Menus shall be made available for review by the clients or their authorized representatives and the licensing agency upon request.

(6) Modified diets prescribed by a client's physician as a medical necessity shall be provided.

(A) The licensee shall obtain and follow instructions from the physician or dietitian on the preparation of the modified diet.

(7) Commercial foods shall be approved by appropriate federal, state and local authorities. All foods shall be selected, transported, stored, prepared and served so as to be free from contamination and spoilage and shall be fit for human consumption. Food in damaged containers shall not be accepted, used or retained.

(8) Where indicated, food shall be cut, chopped or ground to meet individual needs.

(9) Powdered milk shall not be used as a beverage but shall be allowed in cooking and baking. Raw milk, as defined in Division 15 of the California Food and Agricultural Code shall not be used. Milk shall be pasteurized.

(10) Except upon written approval by the licensing agency, meat, poultry and meat food products shall be inspected by state or federal authorities. Written evidence of such inspection shall be available for all products not obtained from commercial markets.

(11) All home canned foods shall be processed in accordance with standards of the University of California Agricultural Extension Service. Home canned foods from outside sources shall not be used.

80076 FOOD SERVICE (Continued) **80076**

(12) If food is prepared off the facility premises, the following shall apply:

(A) The preparation source shall meet all applicable requirements for commercial food services.

(B) The facility shall have the equipment and staff necessary to receive and serve the food and for cleanup.

(C) The facility shall maintain the equipment necessary for in-house preparation, or have an alternate source for food preparation, and service of food in emergencies.

(13) All persons engaged in food preparation and service shall observe personal hygiene and food services sanitation practices which protect the food from contamination.

(14) All foods or beverages capable of supporting rapid and progressive growth of microorganisms which can cause food infections or food intoxications shall be stored in covered containers at 45 degrees F (7.2 degrees C) or less.

(15) Pesticides and other similar toxic substances shall not be stored in food storerooms, kitchen areas, food preparation areas, or areas where kitchen equipment or utensils are stored.

(16) Soaps, detergents, cleaning compounds or similar substances shall be stored in areas separate from food supplies.

(17) All kitchen, food preparation, and storage areas shall be kept clean, free of litter and rubbish, and measures shall be taken to keep all such areas free of rodents, and other vermin.

(18) All food shall be protected against contamination. Contaminated food shall be discarded immediately.

(19) All equipment, fixed or mobile, dishes, and utensils shall be kept clean and maintained in safe condition.

(20) All dishes and utensils used for eating and drinking and in the preparation of food and drink, shall be cleaned and sanitized after each usage.

(A) Dishwashing machines shall reach a temperature of 165 degrees F (74 degrees C) during the washing and/or drying cycle to ensure that dishes and utensils are cleaned and sanitized.

80076 FOOD SERVICE (Continued) **80076**

(B) Facilities not using dishwashing machines shall clean and sanitize dishes and utensils by an alternative comparable method.

(21) Equipment necessary for the storage, preparation and service of food shall be provided, and shall be well-maintained.

(22) Tableware and tables, dishes, and utensils shall be provided in the quantity necessary to serve the clients.

(23) Adaptive devices shall be provided for self-help in eating as needed by clients.

(b) The licensing agency shall have the authority to require the facility to provide written information, including menus, regarding the food purchased and used over a given period when it is necessary to determine if the licensee is in compliance with the food service requirements in the regulations in this Division.

(1) The licensing agency shall specify in writing the written information required from the licensee.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1528, 1530, 1530.5 and 1531, Health and Safety Code.

80077 PERSONAL SERVICES (RESERVED) **80077**

80077.2 CARE FOR CLIENTS WHO RELY UPON OTHERS TO PERFORM ALL ACTIVITIES OF DAILY LIVING **80077.2**

(a) A licensee of an adult CCF may accept or retain a client who relies upon others to perform all activities of daily living for them.

(b) Prior to accepting a client into care, the licensee shall complete the following:

(1) An approved plan of operation demonstrating the licensee's ability to care for these clients as specified in Section 80022(e).

(2) A Needs and Services Plan, as required by the facility-specific regulations, that includes all of the following:

(A) A plan to monitor the client's skin condition, including:

80077.2 CARE FOR CLIENTS WHO RELY UPON OTHERS TO PERFORM ALL ACTIVITIES OF DAILY LIVING (Continued) **80077.2**

1. Specific guidelines for turning the client (time, method, acceptable positions).

2. Skin breakdown.

3. Objective symptoms, observable by a lay person, indicating when a licensed professional must be contacted.

(B) A method for feeding the client and providing him/her with hydration.

(C) A method for determining the client's needs.

(D) A method for communicating with the client.

(E) A list of emergency contacts and a list of readily observable conditions that indicate when emergency intervention is necessary.

(F) A list of persons to contact in the event of non-emergency client distress or discomfort and a list of readily observable conditions that indicate when the licensee is to contact those persons.

(G) A description of the client-specific training that facility staff will receive.

1. The training must be provided by the client's health care provider (physician or nurse), the client's physical or mental health therapist, social worker, and placement worker, within their individual scopes of practice.

2. The training must include the client’s needs and objective symptoms that indicate when the licensee is to obtain health care or other type of assistance.

3. Repealed by Manual Letter No. CCL-07-01, effective 1/12/07.

(H) In an ARF, an agreement, signed by the placement agency, or authorized representative, to review the client's care at least once a month. A copy of the agreement shall be maintained in the client’s file.

80077.2 CARE FOR CLIENTS WHO RELY UPON OTHERS TO PERFORM ALL ACTIVITIES OF DAILY LIVING (Continued) **80077.2**

(I) The licensee's agreement to document significant occurrences that result in changes in the client's physical, mental, and/or functional capabilities. This documentation must be retained in the client's record in the facility and be readily available for review by the client's health care providers and the Department.

(c) The Department may require any additional information it considers necessary to ensure the safety of clients.

(d) Repealed by Manual Letter No. CCL-02-10, effective 9/8/02.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, and 1530, Health and Safety Code.

80077.3 CARE FOR CLIENTS WHO LACK HAZARD AWARENESS OR IMPULSE CONTROL **80077.3**

(a) If a client requires protective supervision because of running/wandering away, supervision may be enhanced by fencing yards, using self-closing latches and gates, and installing operational bells, buzzers, or other auditory devices on exterior doors to alert staff when the door is opened. The fencing and devices must not substitute for appropriate staffing.

(1) The licensee may use wrist bands and other client egress-alert devices with the prior written approval of the client or authorized representative, if the client is legally incapable of giving consent, provided that the devices do not violate Section 80072.

(2) The licensee of an ARF, GH, SFH, FFH, or CFH may use a delayed-egress device if the client lacks hazard awareness or impulse control and only as specified in Health and Safety Code Section 1531.1.

80077.3 CARE FOR CLIENTS WHO LACK HAZARD AWARENESS OR IMPULSE CONTROL (Continued) **80077.3**

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Health and Safety Code Section 1531. 1 is paraphrased in pertinent part:

(a) A residential facility licensed as an adult residential facility, group home, small family home, foster family home, or a family home certified by a foster family agency may install and utilize delayed egress devices of the time delay type.

(b) As used in this section, "delayed egress device" means a device that precludes the use of exits for a predetermined period of time. These devices shall not delay any resident's departure from the facility for longer than 30 seconds.

(c) Within 30 seconds of delay, facility staff may attempt to redirect a resident who attempts to leave the facility.

(d) Any person accepted by a residential facility ... utilizing delayed egress devices shall meet all of the following conditions:

(1) The person shall have a developmental disability as defined in Section 4512 of the Welfare and Institutions Code.

(2) The person shall be receiving services and case management from a Regional Center under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

(3) An interdisciplinary team, through the Individual Program Plan (IPP) process pursuant to Section 4646.5 of the Welfare and Institutions Code, shall have determined that the person lacks hazard awareness or impulse control and requires the level of supervision afforded by a facility equipped with delayed egress devices, and that but for this placement, the person would be at risk of admission to, or would have no option but to remain in, a more restrictive state hospital or state developmental center placement.

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80077.3 CARE FOR CLIENTS WHO LACK HAZARD AWARENESS OR IMPULSE CONTROL (Continued) **80077.3**

HANDBOOK CONTINUES

(e) The facility shall be subject to all fire and building codes, regulations, and standards applicable to residential care facilities for the elderly utilizing delayed egress devices, and shall receive approval by the county or city fire department, the local fire prevention district, or the State Fire Marshal for the installed delayed egress device.

(f) The facility shall provide staff training regarding the use and operation of the egress control devices utilized by the facility, protection of residents' personal rights, lack of hazard awareness and impulse control behavior, and emergency evacuation procedures.

(g) The facility shall develop a plan of operation approved by the State Department of Social Services that includes a description of how the facility is to be equipped with egress control devices that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143 of the Health and Safety Code.

(h) The plan shall include, but shall not be limited to, all of the following:

(1) A description of how the facility will provide training for staff regarding the use and operation of the egress control devices utilized by the facility.

(2) A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code.

(3) A description of how the facility will manage the person's lack of hazard awareness and impulse control behavior.

(4) A description of the facility's emergency evacuation procedures.

(i) Delayed egress devices shall not substitute for adequate staff. The capacity of the facility shall not exceed six residents.

(j) Emergency fire and earthquake drills shall be conducted at least once every three months on each shift, and shall include all facility staff providing resident care and supervision.

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80077.3 CARE FOR CLIENTS WHO LACK HAZARD AWARENESS OR IMPULSE CONTROL (Continued) **80077.3**

(3) The following initial and continuing requirements must be met for the licensee to utilize delayed egress devices on exterior doors or perimeter fence gates:

(A) The licensee shall notify the Department immediately after determining the date that the device will be installed.

(B) The licensee shall ensure that the fire clearance includes approval of delayed egress devices.

(C) Following the disaster and mass casualty plan specified in Section 80023, fire and earthquake drills shall be conducted at least once every three months on each shift and shall include, at a minimum, all facility staff who provide or supervise client care and supervision.

(D) Without violating Section 80072(a)(6), facility staff shall attempt to redirect a client who lacks hazard awareness or impulse control and who attempts to leave the facility.

(E) Clients who continue to indicate a desire to leave the facility following an egress delay shall be permitted to do so.

(F) Without violating Section 80072(a)(6), facility staff shall ensure the continued safety of clients when they leave the facility.

(G) The licensee shall report to the Department, to the client's responsible representative, if any, and to any family member who has requested notification, each incident in which a client leaves the facility unassisted. The report shall be made by telephone no later than the next working day and in writing within seven calendar days.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, 1530, 1531, and 1531.1, Health and Safety Code.

80077.4 CARE FOR CLIENTS WITH INCONTINENCE 80077.4

(a) A licensee of an adult CCF may accept or retain a client who has bowel and/or bladder incontinence.

(b) If a licensee accepts or retains a client who has bowel and/or bladder incontinence, the licensee is responsible for all of the following:

(1) Ensuring that incontinent care products appropriate to the needs of the client are used whenever they are needed.

(2) Ensuring that clients who can benefit from scheduled toileting are assisted or reminded to go to the bathroom at regular intervals rather than being diapered.

(3) Assisting the client with self-care.

(4) Ensuring that clients with incontinence are kept clean and dry, and that the facility remains free of odors.

(5) Ensuring that, where prescribed, bowel and/or bladder programs are designed by a licensed professional or designee. The person designing the program must have training and experience in care of persons with bowel and/or bladder dysfunction and development of retraining programs for establishing normal patterns of continence.

(A) The licensee shall ensure that clients are assisted with a structured bowel and/or bladder retraining program if one has been designed for the client.

(B) The licensee shall ensure that facility staff responsible for implementing the program receive training from the licensed professional or designee who designed the program.

(C) The licensee obtains from the licensed professional or designee written instructions to facility staff outlining the procedures and shall document the names of facility staff who received the training.

(D) The licensee shall ensure that the licensed professional or designee evaluates the effectiveness of the program and staff as the licensed professional or designee deems appropriate, but at least annually.

(6) Ensuring that the condition of the skin exposed to urine and stool is evaluated regularly to ensure that skin breakdown is not occurring.

(7) Ensuring privacy when care is provided.

(8) Providing needed incontinence supplies when the client or a third party is unable to do so.

80077.4 CARE FOR CLIENTS WITH INCONTINENCE 80077.4
(Continued)

(9) Ensuring that fluids are not withheld to control incontinence.

(10) Ensuring that a client with incontinence is not catheterized to control incontinence for the convenience of the licensee or facility staff.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80077.5 CARE FOR CLIENTS WITH CONTRACTURES 80077.5

(a) A licensee of an adult CCF may accept or retain a client who has contractures.

(1) Repealed by Manual Letter No. CCL-98-05, effective 10/1/98.

(2) Repealed by Manual Letter No. CCL-98-05, effective 10/1/98.

(b) If a licensee accepts or retains a client who has contractures, the licensee is responsible for all of the following:

(1) Monitoring the client's ongoing ability to care for his/her contractures in accordance with the physician's instructions.

(2) Ensuring that care is provided by a licensed professional or trained facility staff when the client is unable to provide self-care.

(A) The licensee shall ensure that facility staff responsible for assisting with range of motion exercises or other exercise(s) prescribed by the physician or therapist receive supervision and training from a licensed professional.

(B) The licensee obtains from the licensed professional written documentation outlining the procedures for the exercises and the names of facility staff who received the training.

(C) The licensee shall ensure that the licensed professional reviews staff performance as the licensed professional deems necessary, but at least once a year.

(c) In addition to Section 80077.5(b), in an ARF, the licensee shall ensure that there is a plan of care for the contractures that is developed by a licensed professional.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80078 RESPONSIBILITY FOR PROVIDING CARE AND SUPERVISION 80078

(a) The licensee shall provide care and supervision as necessary to meet the client's needs.

(b) In any instance where the Department does not suspend the facility license and the licensing agency requires that a client/resident be relocated, as specified in Section 80094, the licensee shall prepare a written relocation plan. The plan shall contain all necessary steps to be taken to reduce stress to the client/resident which may result in transfer trauma.

(1) The written relocation plan shall include, but not be limited to the following:

(A) A specific date for beginning and a specific date for completion of the process of safely relocating the client/resident. The time frame for relocation may provide for immediate relocation but shall not exceed 30 days or 30 days after the date of the written conclusion of the client's appeal of the relocation order, if appealed.

(B) A specific date when the client/resident and the client's/resident's authorized representative, if any, shall be notified of the need for relocation.

(C) A specific date when consultation with the client's/resident's physician shall occur to obtain a current medical assessment of the client's/resident's health needs, to determine the appropriate facility type for relocation and to ensure that the client's/resident's health care needs continue to be met at all times during the relocation process.

(D) The method by which the licensee shall participate in the identification of an acceptable relocation site with the client/resident and the authorized representative, if any. The licensee shall advise the client/resident and/or the authorized representative that if the client/resident is to be moved to another nonmedical community care facility, a determination must be made that the client's/resident's needs can be legally met in the new facility before the move is made. If the client's/resident's needs cannot be legally met in the new facility, the client/resident must be moved to a facility licensed to provide the necessary care.

(E) A list of contacts made or to be made by the licensee with community resources, including but not limited to, social workers, family members, Long Term Care Ombudsman, clergy and others as appropriate to ensure that services are provided to the client/resident before, during and after the move. The need for the move shall be discussed with the client/resident and the client/resident assured that support systems will remain in place.

(F) Measures to be taken until relocation to protect the client/resident and/or meet the client's/resident's health and safety needs.

80078 RESPONSIBILITY FOR PROVIDING CARE AND SUPERVISION 80078
(Continued)

(G) An agreement to notify the licensing agency when the relocation has occurred, including the client's/resident's new address, if known.

(2) The relocation plan shall be submitted in writing to the licensing agency within the time set forth in the written notice by the licensing agency that the client/resident requires health services that the facility cannot legally provide.

(3) Any changes in the relocation plan shall be submitted in writing to the licensing agency. The licensing agency shall have the authority to approve, disapprove or modify the plan.

(4) If relocation of more than one (1) client/resident is required, a separate plan shall be prepared and submitted in writing for each client/resident.

(5) The licensee shall comply with all terms and conditions of the approved plan. No written or oral contract with any other person shall release the licensee from the responsibility specified in Sections 80078(b) and (c) for relocating a client/resident who has a health condition(s) which cannot be cared for in the facility and/or requires inpatient care in a licensed health facility, nor from taking all necessary actions to reduce stress to the client/resident.

(6) In cases where the licensing agency determines that the resident is in imminent danger because of a health condition(s) which cannot be cared for in the facility or which requires inpatient care in a licensed health facility, the licensing agency shall have the authority to order the licensee to immediately relocate the resident.

(c) In all cases when a client or resident must be relocated, the licensee shall not obstruct the relocation process and shall cooperate with the licensing agency in the relocation process. Such cooperation shall include, but not be limited to, the following activities:

(1) Identifying and preparing for removal of the medications, Medi-Cal or Medicare or other medical insurance documents, clothing, safeguarded cash resources, valuables and other belongings of the client or resident.

(2) Contacting the authorized representative of the client/resident to assist in transporting him or her, if necessary.

(3) Contacting other suitable facilities for placement, if necessary.

(4) Providing access to client's/resident's files when required by the Department.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1511, 1528, 1531 and 1556, Health and Safety Code.

80079 ACTIVITIES (RESERVED) 80079

Article 7. PHYSICAL ENVIRONMENT

80086 ALTERATIONS TO EXISTING BUILDINGS OR NEW FACILITIES 80086

(a) Prior to construction or alterations, all licensees shall notify the licensing agency of the proposed change.

(b) The licensing agency shall have the authority to require that the licensee have a building inspection by a local building inspector if the agency suspects that a hazard to the clients' health and safety exists.

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(c) Prior to construction or alterations, state or local law requires that all facilities secure a building permit.

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NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

80087 BUILDINGS AND GROUNDS 80087

(a) The facility shall be clean, safe, sanitary and in good repair at all times for the safety and well-being of clients, employees and visitors.

(1) The licensee shall take measures to keep the facility free of flies and other insects.

(2) The licensee shall provide for the safe disposal of water and other chemicals used for cleaning purposes.

(b) All clients shall be protected against hazards within the facility through provision of the following:

(1) Protective devices including but not limited to nonslip material on rugs.

80087 BUILDINGS AND GROUNDS (Continued) **80087**

(c) All outdoor and indoor passageways, stairways, inclines, ramps, open porches and other areas of potential hazard shall be kept free of obstruction.

(d) General permanent or portable storage space shall be available for the storage of facility equipment and supplies.

(1) Facility equipment and supplies shall be stored in this space and shall not be stored in space used to meet other requirements specified in this chapter and Chapters 2, and 4 through 7.

(e) All licensees serving children or serving clients who have physical handicaps, mental disorders, or developmental disabilities shall ensure the inaccessibility of pools, including swimming pools (in-ground and above-ground), fixed-in-place wading pools, hot tubs, spas, fish ponds or similar bodies of water through a pool cover or by surrounding the pool with a fence.

(1) Fences shall be at least five feet high and shall be constructed so that the fence does not obscure the pool from view. The bottom and sides of the fence shall comply with Division 1, Appendix Chapter 4 of the 1994 Uniform Building Code. In addition to meeting all of the aforementioned requirements for fences, gates shall swing away from the pool, self-close and have a self-latching device located no more than six inches from the top of the gate. Pool covers shall be strong enough to completely support the weight of an adult and shall be placed on the pool and locked while the pool is not in use.

(A) If licensed prior to June 1, 1995, facilities with existing pool fencing shall be exempt from the fence requirements specified in Section 80087(e)(1) until such fence is replaced or structurally altered. If the licensee replaces or alters the fence, it shall meet the fence requirements specified in Section 80087(e)(1).

(2) Where an above-ground pool structure is used as the fence or where the fence is mounted on top of the pool structure, the pool shall be made inaccessible when not in use by removing or making the ladder inaccessible or erecting a barricade to prevent access to decking. If a barricade is used, the barricade shall meet the requirements of Section 80087(e)(1).

80087 BUILDINGS AND GROUNDS (Continued) **80087**

(f) All in-ground pools, and above-ground pools which cannot be emptied after each use shall have an operative pump and filtering system.

(g) Disinfectants, cleaning solutions, poisons, firearms and other items that could pose a danger if readily available to clients shall be stored where inaccessible to clients.

(1) Storage areas for poisons, and firearms and other dangerous weapons shall be locked.

(2) In lieu of locked storage of firearms, the licensee may use trigger locks or remove the firing pin.

(A) Firing pins shall be stored and locked separately from firearms.

(3) Ammunition shall be stored and locked separately from firearms.

(h) Medicines shall be stored as specified in Section 80075(m) and (n) and separately from other items specified in Section 80087(g) above.

(i) The items specified in Section 80087(g) above shall not be stored in food storage areas or in storage areas used by or for clients.

(j) A licensee of a Group Home or Adult Residential Facility that has been approved to utilize secured perimeters shall comply with Health and Safety Code section 1531.15(i) and California Code of Regulations, Title 17, Division 2, Chapter 3, Subchapter 4, Article 12, Section 56071(c):

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Health and Safety Code section 1531.15 provides in pertinent part:

(i) Interior and exterior space shall be available on the facility premises to permit clients to move freely and safely.

California Code of Regulations, Title 17, Section 56071 provides in part:

(c) Grounds of residential facilities governed by this article may be fenced, and gates therein equipped with locks, provided safe dispersal areas are located not less than 50 feet (15240mm) from the buildings. Dispersal areas shall be sized to provide an area of not less than three square feet (0.282) per occupant. Gates shall not be installed across corridors or passageways leading to the dispersal areas unless they comply with the exit requirements of Section 1021 of the California Building Standards Code.

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NOTE: Authority cited: Section 1530 and 1531.15, Health and Safety Code. Reference: Sections 1501, 1531 and 1531.15, Health and Safety Code.

80088 FIXTURES, FURNITURE, EQUIPMENT AND SUPPLIES 80088

(a) A comfortable temperature for clients shall be maintained at all times.

(1) The licensee shall maintain the temperature in rooms that clients occupy between a minimum of 68 degrees F (20 degrees C) and a maximum of 85 degrees F (30 degrees C).

(A) In areas of extreme heat the maximum shall be 30 degrees F (16.6 degrees C) less than the outside temperature.

(2) Nothing in this section shall prohibit clients from adjusting individual thermostatic controls.

(b) All window screens shall be in good repair and be free of insects, dirt and other debris.

(c) Fireplaces and open-faced heaters shall be made inaccessible to clients to ensure protection of the clients' safety.

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(1) The use of a fireplace screen or similar barrier will meet this requirement.

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(d) The licensee shall provide lamps or lights as necessary in all rooms and other areas to ensure the comfort and safety of all persons in the facility.

(e) Faucets used by clients for personal care such as shaving and grooming shall deliver hot water.

(1) Hot water temperature controls shall be maintained to automatically regulate temperature of hot water delivered to plumbing fixtures used by clients to attain a hot water temperature of not less than 105 degrees F (40.5 degrees C) and not more than 120 degrees F (48.8 degrees C).

80088 FIXTURES, FURNITURE, EQUIPMENT AND SUPPLIES (Continued) **80088**

(2) Taps delivering water at 125 degrees F (51.6 degrees C) or above shall be prominently identified by warning signs.

(3) All toilets, hand washing and bathing facilities shall be maintained in safe and sanitary operating condition. Additional equipment, aids, and/or conveniences shall be provided in facilities accommodating physically handicapped clients who need such items.

(f) Solid waste shall be stored, located and disposed of in a manner that will not transmit communicable diseases or odors, create a nuisance, or provide a breeding place or food source for insects or rodents.

(1) All containers, including movable bins, used for storage of solid wastes shall have tight-fitting covers kept on the containers; shall be in good repair, shall be leakproof and rodent-proof.

(2) Solid waste containers, including movable bins, receiving putrescible waste shall be emptied at least once per week or more often if necessary to comply with (f) above.

(3) Each movable bin shall provide for suitable access and a drainage device to allow complete cleaning at the storage area.

(g) The licensee shall provide linens of various kinds necessary to meet the program of services being offered by the facility and the requirements specified in Chapters 2 through 7.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

Article 8. INCIDENTAL MEDICAL SERVICES

80090 HEALTH AND SAFETY SERVICES 80090

(a) The provisions of this article are applicable to adult CCFs.

(b) Waivers or exceptions will not be granted to accept or retain clients who have health conditions prohibited by Section 80091.

(c) The Department may grant an exception allowing acceptance or retention of a client who has a medical or health condition not listed in Section 80092 if all of the following requirements are met:

(1) Either the condition is chronic and stable, or it is temporary in nature and is expected to return to a condition normal for that client.

(2) The client must be under the medical care of a licensed professional.

(3) The licensee has developed a plan of care for the client as specified in Sections 80068.2 and 80092.2.

(4) The client is able to care for all aspects of the condition for himself/herself or assistance in the care of the condition is provided either by an appropriately skilled and licensed professional, or by facility staff who receive supervision and training from a licensed professional.

(A) Training shall include hands-on instruction in both general procedures and client-specific procedures.

(B) The licensee obtains from the licensed professional written documentation outlining the procedures and the names of facility staff who received the training.

(C) The licensee ensures that the licensed professional reviews staff performance as the licensed professional deems necessary, but at least once a year.

80090 HEALTH AND SAFETY SERVICES 80090
(Continued)

(5) The licensee all aspects of the client's care plans.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, and 1530, Health and Safety Code.

80091 PROHIBITED HEALTH CONDITIONS 80091

(a) In adult CCFs clients who require health services or have a health condition including, but not limited to, those specified below shall not be admitted or retained.

(1) Naso-gastric and naso-duodenal tubes.

(2) Active, communicable TB.

(3) Conditions that require 24-hour nursing care and/or monitoring.

(4) Stage 3 and 4 dermal ulcers.

(5) Any other condition or care requirements which would require the facility to be licensed as a health facility as defined by Sections 1202 and 1250 of the Health and Safety Code.

(b) Repealed by Manual Letter No. CCL-98-05, effective 10/1/98.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, 1530, 1531, and 1557.5, Health and Safety Code.

80092 RESTRICTED HEALTH CONDITIONS

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Section 1502(a) of the Health and Safety Code defines a Community Care Facility (CCF) as providing non-medical residential and day care. Clients who require nursing care and/or monitoring generally may not be in CCFs, though there are exceptions. The exceptions include hospice care in RCFEs, medical care in residential care facilities for the chronically ill (RCF-CIs), and medically fragile children receiving specialized care in Foster Family Homes.

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(a) Adult CCFs may accept or retain clients who have the conditions listed in this section only if all requirements of Article 8 are met.

(b) Care for the following health conditions must be provided only as specified in Sections 80092.1 through 80092.11.

(1) Use of inhalation-assistive devices as specified in Section 80092.3.

(2) Colostomy/ileostomies as specified in Section 80092.4.

(3) Requirement for fecal impaction removal, enemas, suppositories only as specified in Section 80092.5.

(4) Use of catheters as specified in Section 80092.6.

(5) Insulin-dependent Diabetes as specified in Section 80092.8.

(6) Stage 1 and 2 dermal ulcers as specified in Section 80092.9.

(7) Wounds as specified in Section 80092.9.

(8) Gastrostomies as specified in Section 80092.10.

(9) Tracheostomies as specified in Section 80092.11.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80092.1 GENERAL REQUIREMENTS FOR RESTRICTED HEALTH CONDITIONS

(a) A client with a restricted health condition specified in Section 80092 may be admitted or retained in an adult CCF if all requirements in Sections 80092.1(b) through (o) are met.

(b) The licensee is willing to provide the needed care.

(c) Care is provided as specified in this article.

(d) Either the client's medical condition is chronic and stable, or is temporary in nature and is expected to return to a condition normal for that client, and

(e) The client must be under the medical care of a licensed professional.

(f) Prior to admission of a client with a restricted health condition specified in Section 80092, the licensee shall:

(1) Communicate with all other persons who provide care to that client to ensure consistency of care for the medical condition.

(2) Ensure that facility staff who will participate in meeting the client's specialized care needs complete training provided by a licensed professional sufficient to meet those needs.

(A) Training shall include hands-on instruction in both general procedures and client-specific procedures.

(g) All new facility staff who will participate in meeting the client’s specialized care needs shall complete the training prior to providing services to the client.

(h) The licensee shall ensure that facility staff receive instruction from the client's physician or other licensed professional to recognize objective symptoms, observable by a lay person, and how to respond to that client's health problems, including who to contact.

(i) The licensee shall monitor the client's ability to provide self-care for the restricted health condition, document any change in that ability, and inform the persons identified in Section 80092.2(a)(1) of that change.

(j) Should the condition of the client change, all staff providing care and services shall complete any additional training required to meet the client's new needs, as determined by the client's physician or a licensed professional designated by the physician.

(k) If the licensed health professional delegates routine care, the following requirements must be met for health conditions specified in Sections 80092.3, 80092.4 and 80092.6 through 80092.11:

80092.1 GENERAL REQUIREMENTS FOR RESTRICTED HEALTH CONDITIONS (Continued) **80092.1**

(1) The licensee shall obtain written documentation from the licensed professional outlining the procedures and the names of the facility staff who have been trained in those procedures.

(2) The licensee ensures that the licensed professional reviews staff performance as often as necessary, but at least annually.

(l) All training shall be documented in the facility personnel files.

(m) The licensee of an ARF shall develop and maintain, as part of the Needs and Services Plan, a Restricted Health Condition Care Plan as specified in Section 80092.2.

(1) The care plan shall neither require nor recommend that the licensee or any facility personnel or any other person providing care, other than a physician or licensed professional, implement any health care procedure that may legally be provided only by a physician or licensed professional.

(n) The licensee shall ensure that the client’s health-related service needs are met and shall follow the approved plan for each client.

(o) The licensee shall document any significant occurrences that result in changes in the client's physical, mental and/or functional capabilities and report these changes to the client's physician and authorized representative.

(p) The licensee shall demonstrate compliance with the restricted health condition care plan by maintaining in the facility all relevant documentation.

(q) The licensee shall report any substantive deviation from the care plan to the client's authorized representative.

(r) The duty established by this section does not infringe on a client's right to receive or reject medical care or services, as allowed in Section 80072.

(1) If a client refuses medical services specified in the care plan, the licensee shall immediately notify all persons identified in Section 80092.2(a)(1) and shall participate in developing a plan for meeting the client's needs.

(2) If unable to meet the client's needs, the licensee shall issue an eviction notice as specified in Section 80068.5.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80092.2 RESTRICTED HEALTH CONDITION CARE PLAN 80092.2

(a) If the licensee of an ARF chooses to care for a client with a restricted health condition, as specified in Section 80092, the licensee shall develop and maintain, as part of the Needs and Services Plan, a written Restricted Health Condition Care Plan. The plan must include all of the following:

(1) Documentation that the client and the client's authorized representative, if any, the client's physician or a licensed professional designated by the physician, and the placement agency, if any, participated in the development of the plan.

(2) Documentation by the client's physician or a licensed professional designated by the physician, of the following:

(A) Stability of the medical condition.

(B) Medical conditions that require services or procedures.

(C) Specific services needed.

(D) Client's ability to perform the procedures.

(E) The client does not require 24-hour nursing care and/or monitoring.

(3) Identification of a licensed professional who will perform procedures if the client needs medical assistance.

(4) Identification of the person(s) who will perform incidental medical assistance that does not require a licensed professional.

(5) Name and telephone number of emergency medical contacts.

(6) A date specified by the client's physician or designee, who is also a licensed professional, when the plan must be reviewed by all parties identified in Section 80092.2(a)(1).

(7) A signed statement from the client's attending physician that the plan meets medical scope of practice requirements.

(8) For clients of a placement agency, a signed statement from a representative of the placement agency that they have reviewed and approved the plan and that the placement agency will monitor implementation of the plan.

80092.2 RESTRICTED HEALTH CONDITION CARE PLAN 80092.2
(Continued)

(b) The Restricted Health Condition Care Plan shall neither require nor recommend that the licensee or any facility personnel or any other person providing care, other than a physician or licensed professional, implement any health care procedure that may legally be provided only by a physician or licensed professional.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80092.3 INHALATION-ASSISTIVE DEVICES 80092.3

(a) A licensee of an adult CCF may accept or retain a client who requires the use of an inhalation-assistive device if all of the following conditions are met:

(1) The licensee is in compliance with Section 80092.1.

(2) The licensee monitors the client's ongoing ability to operate and care for the device in accordance with the physician's instructions.

(3) The licensee ensures that either:

(A) The device is operated and cared for by a licensed professional when the client is unable to operate the device, or determine his/her own need.

(B) The device can legally be operated by an unlicensed person and is cared for by facility staff who receive training from a licensed professional as specified in Sections 80092.1(k) through (k)(2).

(4) The licensee ensures that:

(A) The device is functional.

(B) The device is removed from the facility when no longer prescribed for use by the client.

(5) The licensee ensures that the room containing the device is large enough both to accommodate it and to allow easy passage of clients and staff.

80092.3 INHALATION-ASSISTIVE DEVICES 80092.3
(Continued)

(6) The licensee ensures that facility staff have the knowledge of and ability to care for the device.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80092.4 COLOSTOMY/ILEOSTOMY 80092.4

(a) A licensee of an adult CCF may accept or retain a client who has a colostomy or ileostomy if all of the following conditions are met:

(1) The client is mentally and physically capable of providing all routine care for his/her ostomy, and the physician has documented that the ostomy is completely healed.

(2) A licensed professional provides assistance in the care of the ostomy.

(3) The licensee is in compliance with Section 80092.1.

(4) The licensee monitors the client's ongoing ability to provide care for his/her ostomy in accordance with the physician's instructions.

(5) The licensee ensures that:

(A) A licensed professional provides ostomy care when the client is unable to provide self-care.

(B) The ostomy bag and adhesive may be changed by facility staff who receive training from the licensed professional as specified in Sections 80092.1(k) through (k)(2).

(6) The licensee ensures that used bags are discarded as specified in Section 80088(f)(2).

(7) The licensee ensures privacy when ostomy care is provided.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80092.5 FECAL IMPACTION REMOVAL, ENEMAS, OR SUPPOSITORIES

(a) A licensee of an adult CCF may accept or retain a client who requires manual fecal impaction removal, enemas, or use of suppositories if all of the following conditions are met:

(1) The licensee is in compliance with Section 80092.1.

(2) The licensee monitors the client's ongoing ability to provide his/her own routine care in accordance with the physician's instructions.

(3) The licensee ensures that a licensed professional administers the fecal impaction removal, the enemas, or suppositories when the client is unable to do so for himself/herself.

(4) The licensee ensures that a licensed professional performs manual fecal impaction removal whenever it is necessary.

(5) The licensee ensures privacy when care is being provided.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80092.6 INDWELLING URINARY CATHETER/CATHETER PROCEDURE

(a) A licensee of an adult CCF may accept or retain a client who requires an indwelling catheter if all of the following conditions are met:

(1) The client is physically and mentally capable of caring for all aspects of the condition except insertion, removal and irrigation.

(A) Irrigation shall only be performed by a licensed professional in accordance with the physician's orders.

(B) Insertion and removal shall only be performed by a licensed professional.

(2) The licensee is in compliance with Section 80092.1.

(3) The licensee monitors the client's ongoing ability to care for his/her catheter in accordance with the physician's instructions.

80092.6 INDWELLING URINARY CATHETER/CATHETER PROCEDURE (Continued)

(4) The licensee ensures that either catheter care is provided by a licensed professional when the client is unable to provide self-care, or the catheter bag and tubing are changed and bags are emptied by facility staff who receive training from the licensed professional as specified in Sections 80092.1(k) through (k)(2).

(5) The licensee ensures that insertion, removal and irrigation of the catheter, or any other required catheter care other than that specified in Section 80092.6(a)(4) are performed by a licensed professional.

(6) The licensee ensures that waste materials are disposed of as specified in Section 80088(f)(2).

(7) The licensee ensures privacy when care is provided.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80092.7 STAPH OR OTHER SERIOUS, COMMUNICABLE INFECTIONS 80092.7

Repealed by CDSS Manual Letter No. CCL 22-01, effective 2/7/22.

80092.8 DIABETES

(a) A licensee of an adult CCF may accept or retain a client who has diabetes if all of the following conditions are met:

(1) The licensee is in compliance with Section 80092.1.

(2) The client is mentally and physically capable of administering his/her own medication and performing his/her own glucose testing if applicable, or a licensed professional administers the tests and injections.

(A) The licensed professional may delegate to trained facility staff glucose testing provided all of the following conditions are met:

1. The blood glucose-monitoring test is performed with a blood glucose-monitoring instrument that has been approved by the federal Food and Drug Administration for over-the-counter sale.

2. The licensee ensures that facility staff responsible for glucose testing receive training from a licensed professional as specified in Sections 80092.1(k) through (k)(2).

3. Facility staff comply with the instructions of the licensed professional regarding the performance of the test and the operation of the blood glucose-monitoring instrument.

4. Facility staff immediately notify the client's physician if the results are not within the normal range for the client.

5. The licensee ensures that the results of each blood glucose test performed by facility staff are documented and maintained in the client's record in the facility.

(3) The licensee ensures that sufficient amounts of medicines, testing equipment, syringes, needles, and other supplies are maintained and stored in the facility.

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80092.8 DIABETES **80092.8**
(Continued)

(4) The licensee ensures that injections are administered immediately after a syringe is filled unless the client is using prefilled syringes prepared by a registered nurse, pharmacist or drug manufacturer.

(5) The licensee ensures that syringes and needles are disposed of in accordance with California Code of Regulations, Title 8, Section 5193.

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(A) California Code of Regulations, Title 8, Section 5193(d)(2) is paraphrased in pertinent part:

Contaminated needles and other contaminated sharps shall not be bent, recapped or removed. Shearing or breaking of contaminated needles is prohibited.

Immediately or as soon as possible after use, contaminated reusable sharps shall be placed in appropriate containers until properly reprocessed. These containers shall be:

1. Puncture resistant;

2. Labeled in accordance with this section;

3. Leakproof on the sides and bottom; and

4. Repealed by Manual Letter No. CCL-07-01, effective 1/12/07.

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(6) The licensee provides a modified diet as prescribed by a client's physician, as specified in Section 80076(a)(6). Any substitutions shall be made by the facility dietitian or in consultation with a registered dietician or the client's physician or medical provider.

(A) Repealed by Manual Letter No. CCL-07-01, effective 1/12/07.

(7) The licensee ensures that all facility staff who provide care receive training in recognizing the signs and symptoms of hyperglycemia and hypoglycemia and in taking appropriate action for client safety.

80092.8 DIABETES **80092.8**
(Continued)

(b) For clients who provide self-care, the licensee shall:

(1) Monitor the client's ongoing ability to perform his/her glucose testing and administer his/her medication in accordance with the physician's instructions.

(2) Assist clients with self-administered medication, as specified in Section 80075.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1531, Health and Safety Code.

80092.9 WOUNDS **80092.9**

(a) A licensee of an adult CCF may accept or retain a client who has a serious wound if all of the following conditions are met:

(1) The licensee is in compliance with Section 80092.1.

(2) The wound is either an unhealed, surgically closed incision or wound, or determined by the physician or a licensed professional designated by the physician to be a Stage 1 or 2 dermal ulcer and is expected by the physician or designated professional to completely heal.

(3) The licensee ensures that a licensed professional in accordance with the physician's instructions provides the wound care.

(A) The licensed professional may delegate simple dressing to facility staff who receive training from a licensed professional as specified in Sections 80092.1(k) through (k)(2).

(B) Repealed by Manual Letter No. CCL-07-01, effective 1/12/07.

80092.9 WOUNDS (Continued) **80092.9**

(4) The licensee ensures that a licensed professional assesses the wound at intervals set by the physician, or a licensed professional designated by the physician, to evaluate treatment and progress toward healing.

(5) The licensee ensures that all aspects of care performed by the licensed professional and facility staff are documented in the client's file.

(b) Non-serious wounds, which include but are not limited to minor cuts, punctures, lacerations, abrasions, and first-degree burns are not affected by this section.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80092.10 GASTROSTOMY FEEDING, HYDRATION, AND CARE 80092.10

(a) A licensee of an adult CCF may accept or retain a client who requires gastrostomy care, feeding, and/or hydration if all of the following conditions are met:

(1) The licensee is in compliance with Section 80092.1.

(2) The physician has documented that the gastrostomy is completely healed.

(3) The licensee monitors the client's ongoing ability to provide all routine feeding, hydration and care for his/her gastrostomy in accordance with the physician's instructions.

(4) The licensee ensures that gastrostomy feeding, hydration, medication administration through the gastrostomy, and stoma cleaning are provided by a licensed professional when the client is unable to provide his/her own feeding, hydration and care.

(A) The licensed professional may delegate the following tasks to facility staff who receive training from a licensed professional as specified in Sections 80092.1(k) through (k)(2):

1. Gastrostomy feeding, hydration, and stoma cleaning.

2. For routine medications, trained staff may add medication through the gastrostomy per physician's or nurse practitioner's orders.

80092.10 GASTROSTOMY FEEDING, HYDRATION, AND CARE 80092.10
(Continued)

3. For PRN medications, trained staff may add medications through the gastrostomy in accordance with Sections 80075(b) through (e).

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80092.11 TRACHEOSTOMIES 80092.11

(a) A licensee of an adult CCF may accept or retain a client who has a tracheostomy if all of the following conditions are met:

(1) The licensee is in compliance with Section 80092.1.

(2) Either the client is mentally and physically capable of providing all routine care for his/her tracheostomy and the physician has documented that the tracheostomy opening (stoma) is completely healed, or assistance in the care of the tracheostomy is provided by a licensed professional.

(A) The licensed professional may delegate routine care for the tracheostomy to facility staff who receive supervision and training from the licensed professional as specified in Sections 80092.1(k) through (k)(2).

1. Suctioning shall not be delegated to facility staff.

(3) The licensee monitors the client's ongoing ability to provide all routine care for his/her tracheostomy in accordance with the physician's instructions.

(4) The licensee ensures that tracheostomy care is provided by a licensed professional when the client is unable to provide self-care.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80093 DEPARTMENT REVIEW OF HEALTH-RELATED CONDITIONS 80093

(a) The Department may review actual or suspected health-related conditions, including those specified in Section 80092 to determine if a client is appropriately placed in the facility and if the client's health-related needs are being met. The Department will inform the licensee that the client's health-related condition requires review and will specify documentation that the licensee shall submit to the Department.

(1) Documentation includes, but is not limited to, the following:

(A) Restricted Health Condition Care Plan, if applicable.

(B) Needs and Services Plan.

(C) Copies of prescriptions for medical services and/or medical equipment.

(2) The licensee shall submit the documentation to the Department within10 working days.

(b) If the Department determines that the client has a restricted health condition, as specified in Section 80092, the licensee shall provide care to the client in accordance with conditions specified in Sections 80092.1 and applicable requirements in Sections 80092.3 through 80092.11. If the licensee is not able to provide adequate care, the client shall be relocated.

(c) If the Department determines that the client has a prohibited health condition, as specified in Section 80091 or a health condition that cannot be cared for within the limits of the license or within the abilities of that specific facility, the Department will order relocation of the client as specified in Section 80094.

(1) The notification to the licensee will include notice of all appeal rights, as specified in Section 80094.

(d) This section does not entitle the licensee to a full evidentiary hearing, state hearing, or any other administrative review beyond that set forth in this section.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, and 1531, Health and Safety Code.

80094 HEALTH CONDITION RELOCATION ORDER 80094

(a) In an adult CCF the Department will order relocation of a client if the Department makes any of the following determinations:

(1) The client has a prohibited health condition, as specified in Section 80091.

(2) The licensee has not met all requirements in Sections 80092.1 and applicable requirements in Sections 80092.3 through 80092.11.

(3) The client has a health condition that cannot be cared for within the limits of the license or within the abilities of that specific facility.

(b) The Department will give written notice to the licensee ordering the relocation of the client and informing the licensee of the client's right to an IDT review of the relocation order.

(1) Concurrently the Department will give the notice of the health condition relocation order and information about the client's right to request review of the relocation order to the client. The Department will mail, by certified mail, or deliver a copy within one working day to the client's authorized representative, if any and responsible person.

(A) If the client has no authorized representative, as defined in Section 80001, the relocation order shall be sent to the responsible person and representative payee, if any.

(2) The health condition relocation order will state the reason for the relocation order and cite the regulation(s) requiring the relocation.

(3) Upon receipt of the relocation order, the licensee shall prepare a written relocation plan in compliance with Section 80078.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, 1530, 1531, and 1556, Health and Safety Code.

80094.5 CLIENT'S REQUEST FOR REVIEW OF A HEALTH CONDITION RELOCATION ORDER BY THE INTERDISCIPLINARY TEAM (IDT) 80094.5

(a) A client or the client's authorized representative, if any, may request a review of the Department's health condition relocation order by the IDT.

(b) The client or the client's authorized representative, if any, has 10 working days from receipt of the relocation order to submit to the licensee a written, signed, and dated request for a review and determination by the IDT.

(1) For purposes of this section, a working day is any day except Saturday, Sunday, or an official state holiday.

(c) The licensee shall mail or deliver such a request to the Department within two (2) working days of receipt.

(1) Failure or refusal to do so may subject the licensee to civil penalties, as provided in Section 80054.

(d) Within five (5) working days of receipt by the Department of the request for review, the Department will give written notification to the licensee, client and the client's authorized representative, if any, acknowledging receipt of the client's request for review of the relocation order.

(e) Within twenty (20) working days from receipt of the client's review request, the licensee shall submit to the Department the documentation specified in this section to complete the client's review request.

(1) If the information is not received within twenty (20) days, the request for review will be considered withdrawn, the licensee will be notified, and the relocation plan will be implemented.

(f) The licensee shall cooperate with the client and the client's authorized representative, if any, in gathering the documentation to complete the client's review request.

(g) The documentation to complete the client's review request shall include, but not be limited to, the following:

(1) The reason(s) for disagreeing that the client has the health condition identified in the relocation order and why the client believes he/she may legally continue to remain in a CCF.

80094.5 CLIENT'S REQUEST FOR REVIEW OF A HEALTH CONDITION RELOCATION ORDER BY THE INTERDISCIPLINARY TEAM (IDT) **80094.5**
(Continued)

(2) Current health and functional capabilities assessments, as specified in Sections 80069 and 80069.2.

(A) For purposes of this section, "current" means a medical assessment completed on or after the date of the relocation order.

(3) A written statement from any placement agency currently involved with the client addressing the relocation order.

(h) The Department will inform the licensee, client and the client's authorized representative, if any, in writing, of the IDTs determination and the reason for that determination not more than 30 days after the Department's receipt of the information required in this section.

(i) A client does not have a right to a review under this section in any of the following circumstances:

(1) A health condition relocation order has been issued under Section 80078(b)(6).

(2) A client has been evicted under Section 80068.5.

(3) A temporary suspension order has been issued under Section 80042.

(j) This section does not entitle the client to a right to a state hearing or any other administrative review beyond that set forth in this section.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1507, 1530, and 1556, Health and Safety Code.

80095 CLIENTS IN CARE AT TIME OF FINAL ADOPTION OF REGULATIONS **80095**

Repealed by Manual Letter No. CCL-02-10, effective 9/8/02.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, and 1531, Health and Safety Code.

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Short-Term Residential Therapeutic Program INTERIM LICENSING STANDARDS

Chapter 7.5

VERSION 6

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SHORT-TERM RESIDENTIAL THERAPEUTIC PROGRAM

ARTICLE 1. GENERAL

87000 GENERAL.

(a) The interim licensing standards contained in this chapter constitute the written instructions authorized by Statutes 2015, Chapter 773, Section 123(b), Statutes 2016, Chapter 612, Section 131(b), Statutes 2017, Chapter 732, Section 126(b), and Statutes 2021, Chapter 86, Sections 11 and 57, for the implementation of the Continuum of Care Reform provisions that govern short-term residential therapeutic programs. The Department is authorized to use the interim licensing standards until regulations are adopted, notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5, commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) A short-term residential therapeutic program, as defined in Health and Safety Code section 1502(a)(18), shall be governed by the interim licensing standards specified in this chapter.

(1) In addition to subsection (b), a short-term residential therapeutic program, except where specified otherwise in this chapter, shall be governed by the provisions in Title 22, California Code of Regulations, Division 6, Chapter 1, General Licensing Requirements.

(c) These interim licensing standards may be cited as the California Department of Social Services Short-Term Residential Therapeutic Program Interim Licensing Standards, (Cal. Dept. of Social Services, STRTP ILS). The effective dates of the STRTP ILS are as follows:

(1) Version 1, effective 01/01/2017
(2) Version 2, effective 01/27/2017
(3) Version 3, effective 01/11/2019
(4) Version 3.1, effective 09/16/2020
(5) Version 4, effective 11/02/2021
(6) Version 5, effective 12/11/2023
(7) Version 6, effective 10/30/2026

(d) The provisions contained in Subchapter 1 shall apply to short-term residential therapeutic programs that serve pregnant or parenting minors and nonminor dependents.

(e) The provisions contained in Subchapter 2 shall apply to short-term residential therapeutic programs that serve children who are under the age of six years. Short-term residential therapeutic programs shall not accept for placement children who are under the age of six years, unless the facility is licensed for that age group and meets the requirements of Subchapter 2.

(f) Except for the definition of "child" as specified in Section 87001 (c)(3) and where specified otherwise in this chapter, references to a "child" in Chapters 1 and 7.5 shall include nonminor dependent.

NOTE: Authority cited: Section 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1501.1, 1502, 1530, 1530.8, 1531, and 1562.01, Health and Safety Code; and Section 11467.1, Welfare and Institutions Code.

87001 DEFINITIONS.

In addition to California Code of Regulations, Title 22, Section 80001, and with the exception of Section 80001(c)(5) and 80001(c)(19), the following shall apply:

(a) (1) "Accredited schools, institutions, colleges or universities" means those educational institutions or programs granted public recognition as meeting established standards and requirements of an accrediting agency authorized by the U.S. Secretary of Education.

(2) "Age or developmentally appropriate" means the following as defined in Welfare and Institutions Code section 362.05(c)(2)(A-B).

(A) Activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical and behavioral capacities that are typical for an age or age group.

(B) In the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

(3) "Affiliated with licensee" means members of board of directors or governing body, executive director, officers and individuals paid by the short-term residential therapeutic program licensee as staff, consultant or contractor used to fulfill the plan of operation.

(4) "Assaultive behavior" means violent, physical actions which are likely to cause immediate physical harm or danger to an individual or others.

(A) Verbal Assault is not considered a form of assaultive behavior.

(B) Assaultive behavior may also include physical actions which are likely to cause immediate unwelcome or unlawful sexual contact.

(b) (1) "Behavior Management Consultant," for the purpose of this Chapter, means a person who designs and/or implements behavior modification intervention services and

meets the requirements specified in California Code of Regulations, Title 17, Sections 54342(a)(13)(A)1.-7.

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California Code of Regulations, Title 17, Section 54342(a)(13)(A)1.-7. provides:

(13) Behavior Management Consultant -- Service Code 620.

(A) A regional center shall classify a vendor as a behavior management consultant if the vendor designs and/or implements behavior modification intervention services and meets the following requirements:

1. Individuals vendored as a behavior management consultant prior to, or as of, December 31, 2006, that have not previously completed twelve semester units in applied behavior analysis, shall have until December 31, 2008 to complete twelve semester units in applied behavior analysis and possess a license and experience as specified in 3. through 7. below.

2. Individuals vendored as a behavior management consultant on, or after, January 1, 2007, shall, prior to being vendored, have completed twelve semester units in applied behavior analysis and possess a license and experience as specified in 3. through 7. below.

3. Possesses a valid license as a psychologist from the Medical Board of California or Psychology Examining Board; or

4. Is a Licensed Clinical Social Worker pursuant to Business and Professions Code, Sections 4996 through 4998.7; or

5. Is a Licensed Marriage and Family Therapist pursuant to Business and Professions Code, Sections 4980 through 4984.7; or

6. Is any other licensed professional whose California licensure permits the design and/or implementation of behavior modification intervention services.

7. Have two years experience designing and implementing behavior modification intervention services.

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(2) "Business Day" means any calendar day except Sunday or the following business holidays: New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day.

(c) (1) "Certificate holder" means a person who has a current administrator's certificate issued by the Department regardless of whether the person is employed as an administrator in a short-term residential therapeutic program.

(2) "Certified administrator" means an administrator who has been issued a group home or short-term residential therapeutic program certificate by the Department and whose certificate is current.

(3) "Child" means a person who is under 18 years of age placed in a licensed short-term residential therapeutic program by a regional center, a parent or guardian, or a public child placement agency with or without a court order. "Child" also means a person who is:

(A) 18-22 as specified in the definition for "child with special health care needs" under subsection (c)(5) and continues to be provided with care and supervision by the short-term residential therapeutic program.

(4) "Child and family team" has the same meaning as "child and family team" as defined in Welfare and Institutions Code section 16501(a)(4).

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Welfare and Institutions Code section 16501(a)(4) provides, in part:

> '"Child and family team' means a group of individuals who are convened by the placing agency and who are engaged through a variety of team-based processes to identify the strengths and needs of the child or youth and his or her family, and to help achieve positive outcomes for safety, permanency, and well-being."

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(5) "Child with Special Health Care Needs" means a person who is 22 years of age or younger, who meets the requirements of Welfare and Institutions Code section 17710, subsection (a) and all of the following conditions:

(A) Has a medical condition that requires specialized in-home health care and

(B) Is one of the following:

1. A child who has been adjudged a dependent of the court under Welfare and Institutions Code section 300.
2. A child who has not been adjudged a dependent of the court under Welfare and Institutions Code section 300, but who is in the custody of the county welfare department.
3. A child who has a developmental disability and is receiving services and case management from a regional center.

(6) "Classroom hour" means fifty (50) to sixty (60) minutes of classroom instruction within a 60-minute period. No credit is given for meal breaks.

(7) "Classroom setting" means a setting, conducive to learning and free from distractions, for which the primary purpose is education, instruction, training, or conference. Participants must be able to simultaneously interact with each other as well as with the instructor.

(8) "Co-locate" means that a vendor applicant is approved for more than one program type, i.e., ARF, RCFE, GH, STRTP, and has received approval to teach specific continuing education courses at the same time and at the same location. Co-location is allowed for Continuing Education Training Program vendors only.

(9) "Complete request" means the vendor applicant has submitted and the Department has received all required information and materials necessary to approve or deny the request for certification program and/or course approval.

(10) "Conduct inimical" means conduct that poses a risk or threat to the health and safety, protection, or well-being of a child, nonminor dependent, another individual or the people of the state of California.

(11) "Consequence" means an action to be imposed if a nonminor dependent violates written rules for living in the facility.

(12) "Containment" means a brief physical restraint of a person for the purpose of effectively gaining quick control of a person who is aggressive or agitated or who is a danger to self or others.

(13) "Continuing Education Training Program Vendor" means a vendor approved by the Department to provide Continuing Education training courses to short-term residential therapeutic program administrators and certificate holders to qualify them for renewal of their short-term residential therapeutic program administrator certificate.

(14) "Continuous Quality Improvement" or "CQI" means the process of identifying, describing, and analyzing strengths and problems and then testing, implementing, learning from, and revising solutions to improve the quality of services.

(15) "Core services and supports**"** has the same meaning as "core services" as described in Welfare and Institutions Code section 11462(b)(1)(A) – (F).

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Welfare and Institutions Code Section 11462(b) provides, in part:

"(1) Core services, made available to children and nonminor dependents either directly or secured through formal agreements with other agencies, which are trauma informed and culturally relevant and include:

(A) Specialty mental health services for children who meet medical necessity criteria for specialty mental health services under the Medi-Cal Early and Periodic Screening, Diagnosis, and Treatment program.

(B) Transition support services for children, youth, and families upon initial entry and placement changes and for families who assume permanency through reunification, adoption, or guardianship.
(C) Educational and physical, behavioral, and mental health supports, including extracurricular activities and social supports.

(D) Activities designed to support transition-age youth and nonminor dependents in achieving a successful adulthood.

(E) Services to achieve permanency, including supporting efforts to reunify or achieve adoption or guardianship and efforts to maintain or establish relationships with parents, siblings, extended family members, tribes, or others important to the child or youth, as appropriate.

(F) When serving Indian children, as defined in subdivisions (a) and (b) of Section 224.1, the core services described in subparagraphs (A) to (E), inclusive, which shall be provided to eligible children consistent with active efforts pursuant to Section 361.7. ”

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(16) “Course” means either, (1) a quarter-or-semester-long structured sequence of classroom instruction covering a specific subject, or (2) a one-time seminar, workshop or lecture of varying duration.

(17) “Criminal Record Clearance” means a determination by the Department that all prerequisites have been met and an individual does not have a conviction, other than an infraction, meaning a fingerprint-based search of state and federal criminal history information has been completed in accordance with the Health and Safety Code section 1522.

(18) “Cultural humility” means the ability to maintain an interpersonal stance that is open to another individual in relation to aspects of cultural identity that is most important to that individual.

(19) "Culturally relevant" means program practices, services, and supports provided to children and families that incorporate or embrace their unique cultural characteristics and diverse backgrounds.

(d) (1) "Direct care staff" means an individual employed by a short-term residential therapeutic program to be the primary caregiver of children, who provides direct care and supervision, as well as facilitates activities and provides support services.

(2) "Discipline" means an action imposed by the facility against the child for their violation of the short-term residential therapeutic program's rules, commitment of illegal actions, or damage to property.

(e) (1) "Early intervention" means the use of non-physical interventions, de-escalation interventions, and other preventative interventions, to help the child not escalate their emotions and behaviors. Early intervention shall be consistent with the child's emergency intervention plan, and may include, but is not limited to, suggesting alternative behavior, crisis communication, and evasive techniques.

(2) "Emergency intervention" means the use of early interventions that are trauma-informed, the justified use of manual restraints used as a last resort, and other preventative interventions to protect the child or others from harm in situations where there is a risk of serious harm to the child or others.

(3) "Emergency intervention plan" means a written plan that addresses how emergency interventions will be implemented by the licensee in compliance with the requirements specified in Section 87095.22.

(4) "Emergency intervention staff training plan" means a written plan which specifies the training provided to short-term residential therapeutic program personnel regarding the use of emergency interventions, as specified in Section 87095.22(g). The emergency intervention staff training plan is a component of the emergency intervention plan.

(f) (1) "Facility manager" has the same meaning as defined in Health and Safety Code section 1522.4(a)(1).

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Health and Safety Code section 1522.4(a)(1) states in part:

> '"Facility manager,' as used in this section, means a person on the premises with the authority and responsibility necessary to manage and control the day-to-day operation of a community care facility and supervise the clients. The facility manager, licensee, and administrator, or any combination thereof, may be the same person provided he or she meets all applicable requirements. If the administrator is also the facility manager for the same facility, this person shall be limited to the administration and management of only one facility."

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(2) "Family-based aftercare services" means an array of integrated services and supports that are provided to or on behalf of a child for at least six months postdischarge from a short-term residential therapeutic program pursuant to Section 4096.6(a) of the Welfare and Institutions Code.

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Welfare and Institutions Code subdivision 4096.6(a) provides:

> "(a) For the purpose of this section, "family-based aftercare services" means an array of integrated services and supports that meets all of the following specifications:
> (1) Are provided to or on behalf of a child for at least six months postdischarge from a short-term residential therapeutic program, or from an out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code. Federal financial participation under the Medi-Cal program shall only be available if all state and federal requirements are met and the service is medically necessary, regardless of the six months postdischarge requirement.
> (2) Are family-based and implemented as part of an individualized, child-specific transition plan in a manner that supports the child's permanency plan and incorporates the recommendations of the qualified individual.

(3) No later than October 1, 2022, meet the standards established pursuant to subdivision (c)."

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(g) (1) "Gender expression" means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

(2) "Gender identity" means a person's identity based on the individual's stated gender identity, without regard to whether the self-identified gender accords with the individual's physical appearance, surgical history, genitalia, legal sex, sex assigned at birth, or name and sex as it appears in medical records, and without regard to any contrary statement by any other person, including a family member, conservator, or legal representative.

(h) (1) "Harm reduction" is a set of principles or practices used to meet the needs of children, with a focus on decreasing the negative impact of risky behaviors over time rather than attempting to immediately eliminate them altogether. Harm reduction centers on child engagement that is holistic, empowering, non-judgmental and transparent. The goals of harm reduction include, but are not limited to, improved youth-centered engagement leading to more trust and healing, a reduction in re-traumatization, and an opportunity to assist in building lasting change towards increased safety and success.

(2) "Health care professional" means a physician or an individual who is licensed or certified under Division 2 of the Business and Professions Code to perform the necessary client care procedures prescribed by a physician. Such health care professionals include, but are not limited to, the following: Physician, Registered Nurse, Public Health Nurse, Licensed Vocational Nurse, Psychiatric Technician, Physical Therapist, Occupational Therapist and Respiratory Therapist.

(3) "Health-related services" shall include, but not be limited to, medical, dental, vision, mental health, substance use disorder services, reproductive and sexual

health care. This shall include abortion and contraception related services and gender affirming health care and gender affirming mental health care.

(i) (1) "Incident report" means a written report required by the Department to report incidents as specified in California Code of Regulations, Title 22, Section 80061 and Section 87061.

(2) "Indian child" means:

(A) An unmarried person who is under the age of 18 and is either a member or citizen of an Indian Tribe or eligible for membership or citizenship in an Indian Tribe and is the biological child of a member/citizen of an Indian Tribe, or;

(B) A nonminor dependent who was previously determined to be an Indian child under (i)(2)(A), unless the nonminor dependent, personally or through their attorney, elects to no longer be considered an Indian child.

(3) "Indian child's Tribe" means the Tribe in which an Indian child is a member or eligible for membership or, in the case of an Indian child who is a member or eligible for membership of more than one Tribe, the Tribe with which the Indian child has more significant contacts, according to Welfare and Institutions Code 224.1(e).

(4) "Indian community" means the community in which the parent or extended family members of an Indian child reside, or with which the parent or extended family members maintain social and cultural ties, or the Indian child's Tribe(s).

(5) "Individualized Health Care Plan" means the written plan developed by an individualized health care plan team and approved by the team physician, or other health care professional designated by the physician to serve on the team, for the provision of specialized in-home health care.

(6) "Individualized Health Care Plan Team" means those individuals who develop an individualized health care plan for a child with special health care needs. This team must include the child's primary care physician or other health care professional

designated by the physician, any involved medical team, the county social worker or regional center caseworker, and any health care professional designated to monitor the specialized in-home health care provided to the child as stated in the child's individualized health care plan. The individualized health care plan team may include, but shall not be limited to, a public health nurse, representatives from the California Children's Services Program or the Child Health and Disability Prevention Program, regional centers, the county mental health department and where reunification is the goal, the parent or parents, if available. In addition, the individualized health care plan team may include a representative of the specialized short-term residential therapeutic program licensee who shall not participate in any team determination required by Sections 87065.05 (a)(2).

(7) "Initial Certification Training Program Vendor" means a vendor approved by the Department to provide the initial forty (40) hour certification training program to persons who do not possess a valid short-term residential therapeutic program administrator certificate.

(8) "Interagency Placement Committee" (IPC) means a committee established by the county, with a membership that includes at least the county placement agency and a licensed mental health professional from the county department of mental health pursuant to Section 4096(c) of the Welfare and Institutions Code.

(j-k) (Reserved)

(l) (1) "Law enforcement" means any officer, sheriff, or marshal of a city, county, state, or federal law enforcement agency.

(m) (1) "Manual restraint" means the use of a hands-on or other physically applied technique to physically limit the freedom of movement of a child. Techniques include, but are not limited to: forced escorts; holding; or other containment techniques, including protective separation and protective separation room.

(2) "Manual restraint plan" means a written plan which address how manual restraints will or will not be implemented by the licensee in compliance with the requirements

specified in Sections 87095.22(e) and (f). The manual restraint plan is a component of the emergency intervention plan.

(3) "Medically accurate" shall have the same meaning as defined in Section 51931(f) of the Education Code.

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Education Code section 51931 provides:

> (f) "Medically accurate" means verified or supported by research conducted in compliance with scientific methods and published in peer-reviewed journals, where appropriate, and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the federal Centers for Disease Control and Prevention, the American Public Health Association, the American Academy of Pediatrics, and the American College of Obstetricians and Gynecologists.

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(4) "Mental health head of service" means the licensed mental health professional or mental health rehabilitation specialist, as defined in Section 630 of Title 9, who has been designated by a short-term residential therapeutic program licensee to oversee and implement the overall mental health treatment program in accordance with the provisions of the short-term residential therapeutic program mental health program protocol.

(n) (1) "Needs and services plan" means a time-limited, goal-oriented written plan, implemented by the licensee, which identifies the specific needs of an individual child, including those items specified in Sections 87068.2 and 87068.22; and delineates those services necessary in order to meet the child's identified needs.

(2) "Nonbinary" is an umbrella term for people with gender identities that fall somewhere outside of the traditional conceptions of strictly either female or male.

People with nonbinary gender identities may or may not identify as transgender, may or may not have been born with intersex traits, may or may not use gender-neutral pronouns, and may or may not use more specific terms to describe their genders, such as agender, genderqueer, gender fluid, Two Spirit, bigender, pangender, gender nonconforming, or gender variant.

(3) "Nonminor dependent" means a foster child, as defined in Welfare and Institution Code section 11400, subsection (v).

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Welfare and Institutions Code section 11400(v) provides:

"'Nonminor dependent' means, on and after January 1, 2012, a foster child, as described in Section 675(8)(B) of Title 42 of the United States Code under the federal Social Security Act who is a current dependent child or ward of the juvenile court, or who is a nonminor under the transition jurisdiction of the juvenile court, as described in Section 450, and who satisfies all of the following criteria:
(1) The nonminor dependent has attained 18 years of age while under an order of foster care placement by the juvenile court, and is not more than 19 years of age on or after January 1, 2012, not more than 20 years of age on or after January 1, 2013, or not more than 21 years of age on or after January 1, 2014, and as described in Section 10103.5.
(2) The nonminor dependent is in foster care under the placement and care responsibility of the county welfare department, county probation department, Indian tribe, consortium of tribes, or tribal organization that entered into an agreement pursuant to Section 10553.1.
(3) The nonminor dependent has a transitional independent living case plan pursuant to Section 475(8) of the federal Social Security Act (42 U.S.C. Sec. 675(8)), as contained in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351), as described in Section 11403."

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(o) ~~(1)~~ ~~"Out-of-state residential facility" means as defined in Family Code section 7910, subsection (b)(2),~~ ~~and certified by the Department~~ ~~as set forth in Family Code~~

~~section 7911.1.~~(Reserved)

~~**HANDBOOK BEGINS HERE**~~

~~Family Code section 7910(b)(2) provides:~~

> ~~"For the purpose of this section, an 'out-of-state residential facility' is a facility that is located in a state outside of California, is licensed or otherwise approved by the applicable state or tribal authority, and provides an integrated program of specialized and intensive care and supervision, services and supports, treatment, and short-term, 24-hour, trauma- informed care and supervision to children. An out-of-state residential facility may be called another name, including a group home, a residential treatment facility, or a residential care treatment facility."~~

~~**HANDBOOK ENDS HERE**~~

(p) (1) "Peer partner" means an individual who has personal experience in the child welfare, mental health or juvenile justice systems as a consumer and/or as a parent/caregiver.

(2) "Physical restraining device" means any physical or mechanical device, material, or equipment attached or adjacent to a child's body which the child cannot remove easily and which restricts the child's freedom of movement. Restraining devices include leg restraints, arm restraints, soft ties or vests, wheelchair safety bars and full-length bedrails.

(3) "Placement agency," including "placing agency," means as defined in Health and Safety Code section 1536.1.

(4) "Positive discipline" is a caregiving approach and method that seeks to create a safe and consistent environment for children to learn and grow. The approach and method is solutions-based, kind and firm, based in mutual respect, and is neither inflicting or intending punishment or allowing excessive freedom of behavior that infringe upon the rights or safety of others.

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Health and Safety Code section 1536.1(a) provides:

> "'Placement agency' means a county probation department, county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, conservator pursuant to Part 3 (commencing with Section 1800) of Division 4 of the Probate Code, conservator pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code, and regional center for persons with developmental disabilities, that is engaged in finding homes or other places for placement of persons of any age for temporary or permanent care."

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(5) "Pregnant and Parenting Minors and Nonminor Dependent Program" means a program operated by a short-term residential therapeutic program that serves pregnant and parenting minors and nonminor dependents.

(6) "Prone position" is a body position in which one lies flat with the chest down and the back up.

(7) "Prone restraint" means the application of a manual restraint on a child in a facedown position for any period of time.

(~~7~~8) "Protective separation" means the voluntary or involuntary removal of a child for the purpose of protecting the child from injuring themselves or others.

(~~8~~9) "Protective separation room" means an unlocked room specifically designated and designed for the involuntary separation of a child from other children for a limited time period for the purpose of protecting the child from injuring or endangering themselves or others. This includes "seclusion" as defined in Section 1180.1(e) of the Health and Safety Code.

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Health and Safety Code section 1180.1(e) provides:

> "Seclusion" means the involuntary confinement of a person alone in a room or an area from which the person is physically prevented from leaving. "Seclusion" does not include a "timeout," as defined in regulations relating to facilities operated by the State Department of Developmental Services.

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(~~9~~10) "Psychotropic medication(s)" are those medications as defined in Sections 369.5(d) and 739.5(d) of the Welfare and Institutions Code.

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Welfare and Institutions Code sections 369.5(d) and 739.5(d) provide:

> "Psychotropic medication or psychotropic drugs are those medications administered for the purpose of affecting the central nervous system to treat psychiatric disorders or illnesses. These medications include, but are not limited to, anxiolytic agents, antidepressants, mood stabilizers, antipsychotic medications, anti-Parkinson agents, hypnotics, medications for dementia, and psychostimulants."

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(q) (1) "Qualified individual" means as defined in Welfare and Institutions Code Section 16501(l)(1).

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Welfare and Institutions Code subdivision (l)(1) of Section 16501 provides:

"Consistent with Section 675a(c)(1)(D) of Title 42 of the United States Code, 'qualified individual' means a trained professional or licensed clinician responsible for conducting the determination described in subdivision (g) of Section 4096 and determining the most effective and appropriate placement for a child. In the case of an Indian child, as defined in Section 224.1, a person may be designated by the child's tribe as the qualified individual pursuant to this subdivision and as defined in subdivision (c) of Section 224.6. In the absence of that designation, the qualified individual shall have specialized knowledge of, training about, or experience with, tribes and the federal Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.)."

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(r) (1) "Reasonable and Prudent Parent Standard" means as defined in Welfare and Institutions Code section 362.05(c)(1).

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Welfare and Institutions Code section 362.05(c)(1) provides:

'"Reasonable and prudent parent" or 'reasonable and prudent parent standard' means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities."

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(2) "Runaway" means a child who absents themselves from the facility without permission from facility personnel.

(3) "Runaway plan" means a written plan which addresses how the licensee will respond to runaway situations. The runaway plan is a component of the emergency intervention plan.

(s) (1) "Self-administer" means the act of a child administering or giving themselves

medicine or injections pursuant to Sections 83075.1, Emergency Medical Assistance, Injections, and Self-Administration of Medications.

(2) "Serious~~ly~~ emotionall~~y~~ disturbanc~~e~~e~~d~~" means as defined in Welfare and Institutions Code section 5600.3 (a)(2).

HANDBOOK BEGINS HERE

Welfare and Institutions Code section 5600.3(a)(2) provides:

"For the purposes of this part, ~~'seriously emotionally disturbed~~ 'a child~~ren~~ or adolescent~~s'~~ with serious emotional disturbance' means minors under the age of 18 years who have a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, other than a primary substance use disorder or developmental disorder, which results in behavior inappropriate to the child's age according to expected developmental norms. Members of this target population shall meet one or more of the following criteria:
(A) As a result of the mental disorder, the child has substantial impairment in at least two of the following areas: self-care, school functioning, family relationships, or ability to function in the community; and either of the following occur:

(i) The child is at risk of removal from home or has already been removed from the home.
(ii) The mental disorder and impairments have been present for more than six months or are likely to continue for more than one year without treatment.
(B) The child displays one of the following: psychotic features, risk of suicide or risk of violence due to a mental disorder.
(C) The child has been assessed pursuant to Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of Division 4 of Title 2 of the Education Code and determined to have ~~an~~ emotional disturbance, as defined in paragraph (4) of subdivision (c) of Section 300.8 of Title 34 of the Code of Federal Regulations."

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(3) "Sexual orientation" describes a person's emotional, romantic or sexual attraction to others that may be shaped at an early age.

(4) "Short-term residential therapeutic program" means a residential facility operated

by a public agency or private organization and licensed by the department pursuant to Health and Safety Code Section 1562.01 that provides an integrated program of specialized and intensive care and supervision, services and supports, treatment, and short-term 24-hour care and supervision to children that is trauma-informed, as defined in standards adopted by the Department. The care and supervision provided by a short-term residential therapeutic program shall be nonmedical, except as otherwise permitted by law. Private short-term residential therapeutic programs shall be organized and operated on a nonprofit basis.

(5) "Social Work Staff" means at least one social worker or other professional person trained in the behavioral sciences who provides, either through employment or alternative means, those services specified in this chapter.

(6) "Specialized short-term residential therapeutic program" means a licensed short-term residential therapeutic program which meets all the requirements to provide specialized in-home health care to children.

(7) "Specialized In-Home Health Care" means health care identified by the child's physician as appropriately administered in the facility pursuant to the child's individualized health care plan. These services must be provided by a health care professional.

(t) (1) "Transgender" means a person whose gender identity differs from the person's assigned or presumed sex at birth.

(2) "Transitional independent living plan (TILP)" means the written plan that describes programs, services, and activities in which a child or nonminor dependent participates to prepare for the transition from foster care to independent living.

(3) "Trauma-informed" means prevention services that proactively provide program models, interventions, practices, services, and supports that acknowledge, seek to understand, recognize, and respond to the varying impacts and effects of all types of trauma on children, nonminor dependents, their families, and those who have contact with the child welfare system. In accordance with recognized principles of a

trauma-informed approach and trauma-specific interventions, trauma-informed programs recognize the impact of trauma on a child's or nonminor dependent's development and implements individualized interventions to address trauma's consequences and facilitate healing, as specified in Section 87078.2.

(u) (Reserved)

(v) (1) "Vendor" means a Department-approved institution, association, individual(s), or other entity that assumes full responsibility or control over a Department-approved Initial Certification Training Program and/or a Continuing Education Training Program.

(2) "Vendor Applicant" means any institution, association, individual(s), or other entity that submits a request for approval of an Initial Certification Training Program and/or a Continuing Education Training Program.

(3) "Video Camera" means an electronic recording device used for observing a specific area with video (including video with or without audio capability), inside or outside a facility, wired or wireless, and includes, but is not limited to, security cameras, surveillance cameras, doorbell cameras, "nanny cameras," "pet cameras", closed-circuit television (CCTV) cameras, and vehicle dashboard cameras.

(w-z) (Reserved)

NOTE: Authority cited: Sections 1522.41(j), 1530, 1530.8, 1530.9, 1507.25, and 1562.01(q), Health and Safety Code; Section 17730, Welfare and Institutions Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Section 51(e)(5), Civil Code; Sections 7910 and 7911.1, Family Code; Sections, 1180.1, 1439(b), 1439(h), 1501, 1502, 1503, 1507, 1507.2, 1522.4, 1522.41, 1522.41(j), 1522.45, 1530.8, 1530.91 1531, 1536.1 and 1562.01, Health and Safety Code; Sections 362.04(a)(2), 362.05(a), 362.05(c)(1), 369.5, 727(a)(4)(A), 739.5, 4096.6, 5600.3, 11331.5(d), 11400, 11403, 11406(c), 11462, 16001.9, 16501, 17710, 17731, 17732.1, 17736(a) and 17736(b), Welfare and Institutions Code; SB 179, Stats. 2017, Ch. 853, Sec. 2; and 45 CFR Section 1351.1(k).

87002 DEFINITIONS – FORMS.

(a) The following forms ~~which~~ are incorporated by reference~~,~~ and apply to this subchapter. ~~and~~ The forms shall be used by the short-term residential therapeutic program ~~treatment facilities.~~, with the exception of LIC 624-LE.

~~(a)~~(1) LIC 9165 (4/22), Board of Directors or Governing Body Statement.

~~(b)~~(2) LIC 624-LE (12/22), Law Enforcement Contact Report or a report containing all the information required in LIC 624-LE.

~~(c)~~(3) PUB 326 (8/22), Facts You Need to Know, Group Home and Short-Term Residential Therapeutic Program Board of Directors or Governing Body.

~~(d)~~(4) Core of Knowledge Guideline (9/19) - Short-Term Residential Treatment Program 40- Hour Initial Certification.

NOTE: Authority cited: Section, 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Chapter 86, Section 57. Reference: Sections 1520.1(b)(1),1520.1(b)(2) and 1522.41(c)(1), and 1538.7, Health and Safety Code.

ARTICLE 2. LICENSING

87009 POSTING OF LICENSE.

(a) The license shall be posted in a prominent, publicly accessible location in the facility.

NOTE: Authority cited: Section 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Chapter 86, Section 57. Reference: Sections 1501 and 1531, Health and Safety Code.

87010.2 PROHIBITION OF DUAL LICENSURE FOR SPECIALIZED SHORT-TERM RESIDENTIAL THERAPEUTIC PROGRAMS.

(a) A short-term residential therapeutic program licensee shall not hold any day care, other residential or health care facility license for the same structure or unit as the short-term residential therapeutic program while the home is providing care and supervision to children with special health care needs.

(1) Any short-term residential therapeutic program licensee planning to provide care and supervision to a child with special health care needs who holds a license as specified in Section 87010.2(a) shall surrender the license to the licensing agency prior to accepting a child with special health care needs.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code; and Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 17732(c), (d), and (e) and 17736(a), Welfare and Institutions Code; and Sections 1507, and 1562.01, Health and Safety Code.

87012 FALSE CLAIMS: INELIGIBILITY.

(a) In addition to California Code of Regulations, Title 22, Section 80012, the following shall apply.

(b) If a person is determined to have made, disseminated, participated in making, or caused to be made a false or misleading statement as specified in California Code of Regulations, Title 22, Section 80012(a), and that statement has resulted in a short-term residential therapeutic program overpayment being assessed then such person shall not be eligible for a new license under Division 6 or Division 12 and shall not be eligible to serve as an officer or employee of a new or subsequent licensee under Division 6 or Division 12 until the overpayment is fully repaid or otherwise discharged.

NOTE: Authority cited: Section 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Section 1550, Health and Safety Code; and Sections 11466.22 Welfare and Institutions Code.

ARTICLE 3. APPLICATION PROCEDURES

87018 APPLICATION FOR LICENSE.

(a) In addition to California Code of Regulations, Title 22, Section 80018, excluding section 80018(d)(13), the following shall apply.

(b) An applicant shall submit an application to the department that includes at least one letter of recommendation in support of its program from a county placing agency.

(1) To obtain a letter of recommendation, an applicant shall submit a copy of its program statement and information as specified in Section 87022, Plan of Operation, to all county placing agencies from which it anticipates receiving placements, including the county in which the facility is located.

(2) Once an applicant receives a letter of recommendation from a county placing agency, the applicant may submit its application to the licensing agency designated to serve the geographical area of service in which the facility is located.

(3) A new letter of recommendation is not required when a short-term residential therapeutic program moves locations.

(c) Each applicant shall submit an application and supporting documents that contain the following to the licensing agency:

(1) Disclosure of the applicant's prior or present service as an administrator, general partner, corporate officer, or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in, any community care facility or in any facility licensed as required by Health and Safety Code section 1520(d).

(2) Disclosure of any revocation or other disciplinary action taken, or in the process of being taken, including but not limited to a decertification, rescission, suspension, exclusion, overpayment, monetary penalty, rate reduction, rate suspension, or rate termination, against a license held or previously held by the entities as specified in Health and Safety Code section 1520(e).

(3) The name and residence and mailing addresses of the facility administrator, a description of the administrator's background and qualifications, and documentation verifying required education and administrative certification.

(4) A financial plan of operation on forms provided by the department.

(A) Start-up funds shall be available and shall include funds for the first three months of operation.

1. Start-up funds may be a line of credit.

(B) Start-up funds shall be independent of prospective fees. In cases of a change of ownership, expected income from current placements shall be considered.

(C) Start-up funds shall not include funds designated for or used for construction costs.

(D) The licensing agency shall have the authority to require written verification of the availability of the funds specified in (A) above.

(5) Documentation of accreditation, application for accreditation, or declaration of accreditation status as required by Section 87089.

(6) A letter of recommendation in support of its program from a county placing agency, as required by Health and Safety Code section 1562.01(f).

(A) The letter of recommendation shall include a statement that the county placing agency reviewed a copy of the applicant's program statement.

(B) If the letter of recommendation is not from the county in which the facility is located, the letter of recommendation shall include the following:

1. A statement from the supporting county stating that they engaged the county in which the facility is located, and notified them of the intent to provide the letter of support. The statement shall include an explanation of why a letter of recommendation was not given by the county in which the facility is located, a summary of any

concerns raised by the county in which the facility is located, and a description of if and how any of those concerns were resolved.

(C) If the letter of recommendation is not from the county in which the facility is located, the applicant shall provide the following:

1. A statement from the applicant that they engaged the county in which the facility is located, and notified them of the intent to operate a short-term residential therapeutic program in their county. The statement shall include both of the following:

(i). A statement that the applicant provided the county in which the facility is located an opportunity for that county to review the program statement and notified that county that the facility received a letter of recommendation from another county.

(ii). An explanation of why a letter of recommendation was not given by the county in which the facility is located, a summary of any concerns raised by the county in which the facility is located, and a description of if and how any of those concerns were resolved.

(D) If an application does not contain a letter of recommendation, the department shall cease review of the application. Nothing in this paragraph shall constitute a denial of application for the purposes of Section 1526 or any other law.

1. For purposes of subparagraph (D), an application does not contain a letter of recommendation if the letter is withdrawn by the supporting county prior to provisional licensure.

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Health and Safety Code section 1562.01(f) provides:

> "(1)(A)(i) A short-term residential therapeutic program applicant shall submit an application to the department that includes a letter of recommendation in support of its program from a county placing agency.
> (ii) The letter of recommendation shall include a statement that the county placing agency reviewed a copy of the applicant's program statement.
> (iii) If the letter of recommendation is not from the county in which the facility is located, the short-term residential therapeutic program applicant shall include, with its application, a statement that it provided the county in which the facility is located an opportunity for that county to review the program statement and notified that county that the facility has received a letter of recommendation from another county.
> (B) If the application does not contain a letter of recommendation as described in subparagraph (A), then the department shall cease review of the application. Nothing in this paragraph shall constitute a denial of the application for purposes of Section 1526 or any other law.
> (C) A new letter of recommendation is not required when a short-term residential therapeutic program moves locations.
> (2) A short-term residential therapeutic program shall submit a copy of its program statement to all county placing agencies from which the short-term residential therapeutic program accepts placements, including the county in which the facility is located, for optional review when the short-term residential therapeutic program updates its program statement."

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(7) A list of all the county placing agencies to whom the applicant's program statement was submitted, as required by Health and Safety Code Section 1562.01(f).

(8) Copies of documentation received by the applicant from all county placing agencies in response to applicant's request for a letter of recommendation.

(9) A written plan of operation as required in Section 87022.

(A) Each applicant shall demonstrate in communications with the Department an understanding of and ability to meet the requirements of Section 87022.

(d) Each corporate applicant shall obtain a signed form, LIC 9165 from each member of the board of directors or governing body. A copy of each signed LIC 9165 shall be submitted to the licensing agency with the facility's application.

NOTE: Authority cited: Sections 1501, 1530, 1531, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1520, 1520.1, 1522.41, 1531, 1562 and 1562.01, Health and Safety Code.

87019 CRIMINAL RECORD CLEARANCE.

(a) In addition to California Code of Regulations, Title 22, Section 80019, the following shall apply.

(b) A nonminor dependent shall not be subject to criminal record clearance as specified in Health and Safety Code section 1502.7(b)(2).

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Health and Safety Code section 1502.7(b)(2) provides:

> "(b) The regulations shall recognize the status of nonminor dependents as legal adults. At a minimum, the regulations shall provide both of the following:… (2) That nonminors described in subdivision (a) in a community care facility shall not be subject to criminal background clearances pursuant to Sections 1522 and 1522.1, for the purposes of facility licensing."

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NOTE: Authority cited: Sections 1502.7, 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017,
Ch. 732, Sec. 126 ; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1502.7, 1522, 1522.1, 1531, and 1562.01, Health and Safety Code.

87022 PLAN OF OPERATION.

(a) California Code of Regulations, Title 22, Section 80022 does not apply.

(b) The licensee shall prepare and maintain a current, written plan of operation that meets all standards and is sufficient to ensure that the facility will operate in compliance with applicable laws.

(c) The plan of operation and related materials shall contain the following:

(1) A program statement as specified by Section 87022.1.

(2) A statement of facility's purposes and goals.

(3) A description of the administrative organization that includes the following:

(A) Complete job descriptions of all positions, including the number of staff employed, and their respective classifications, qualifications, and duties.

(B) Information regarding lines of authority and staff responsibilities.

(C) The number of hours per week that the administrator shall spend completing required duties as specified by Section 87064 as well as 87064.1, and how the administrator shall accomplish such duties, including the use of personnel.

(D) Capacity around translators, multilingual staff, and multicultural staff to provide services to support the program population.

(E) Organizational chart of the corporate structure, including anythe parent organization.

(4) A sketch of the building to be occupied, including a floor plan which describes the capacities of the buildings for the uses intended, room dimensions, video cameras, a designation of the rooms to be used for nonambulatory children or nonminor dependents, if any. The sketch of the building shall also include a description as to how the building meets the requirements specified in Section 87087(b).

(A) For applicants applying as a specialized short-term residential therapeutic program to serve children with special health care needs, the short-term

residential therapeutic program must meet additional buildings and grounds requirements as set forth in Section 87087.1.

(5) A sketch of the grounds showing building, video cameras, driveways, fences, storage areas, pools, gardens, recreation areas, and other spaces used by the population(s) served. The sketch shall include a description as to how the grounds meet the requirements specified in Section 87087.2.

(A) The sketch shall include the dimensions of all areas which will be used by the population(s) served.

(6) A plan for the supervision, evaluation, and training of staff as specified in Section 87065.1 and 87078.2.

(7) Policies, procedures, or practices that the facility shall maintain to ensure that the facility and its employees and independent contractors do not violate the terms of The Child Abuse and Neglect Reporting Act (CANRA) which include:

(A) A supervisor or administrator shall not impede or inhibit the reporting duties of a mandated reporter.

(B) The facility shall not sanction, punish, or discipline any person for making a report.

(C) The facility shall not direct an employee or independent contractor to allow their supervisor to file or process a mandated report on their behalf or require an employee to disclose their identity to the employer.

(8) A description of the administrative policies and procedures to be used to implement the facility's plan of operation. The description shall include the policies and procedures required by Section 87063.

(9) A description of the admission determination procedures that the facility shall use in order to respond to placement requests from placing agencies, as described in Section 87068.05.

(10) A statement of the policies and procedures regarding intake of children and nonminor dependents, as described in Sections 87068.1, 87068.11, and 87068.12, as applicable.

(11) A copy of the admission agreement.

(12) A statement of the policies and procedures for removal or transfer of children and nonminor dependents, as described in Section 87068.4:

(A) After program goals have been reached.

(B) When it is determined program services and supports are no longer needed or proven to be ineffective.

(C) When it is determined that continued placement in the facility is detrimental to the child or nonminor dependent or others in the facility.

(13) A statement of the policies and procedures for rate setting and refunds for children placed by their parents or legal guardian.

(14) A statement whether or not the facility will handle a child's money, personal property, and/or valuables. If money, personal property, and/or valuables will be handled, the method for safeguarding shall ensure compliance with Section 87026 and California Code of Regulations, Title 22, Sections 80025 and 80026.

(15) A list of consultants and community resources to be utilized by the facility as part of its program and explanations of how each consultant and community resource helps the facility meet the specific needs of the children in care.

(16) A statement regarding how the facility will engage and coordinate with community resources and partners, which shall include but is not limited to, Tribal partners, county placing agencies, and mental health providers.

(A) Community engagement may include:

1. Providing services, including core services and supports, to children, nonminor dependents, and families.

2. Establishing culturally relevant and trauma-informed program practices, services, and supports.

3. Training, coaching, and other supports for staff.

(17) A description of trauma-informed and evidence-based intervention and de-escalation techniques that will be used to promote the safety of all individuals in the facility, including but not limited to children or nonminor dependents who have a propensity for behaviors that result in harm to self or others.

(18) If the licensee plans to use delayed egress devices as specified in Health and Safety Code section 1531.1(d), the plan must meet the requirements of Health and Safety Code sections 1531.1(g) and (h).

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Health and Safety Code section 1531.1 provides:

"(a) A residential facility licensed as an adult residential facility, group home, short-term residential therapeutic program, small family home, foster family home, or a family home certified by a foster family agency may install and utilize delayed egress devices of the time delay type.
(b) As used in this section, "delayed egress device" means a device that precludes the use of exits for a predetermined period of time. These devices shall not delay any resident's departure from the facility for longer than 30 seconds.
(c) Within the 30 seconds of delay, facility staff may attempt to redirect a resident who attempts to leave the facility.
(d) Any person accepted by a residential facility or family home certified by a foster family agency utilizing delayed egress devices shall meet all of the following conditions:
(1) The person shall have a developmental disability as defined in Section 4512 of the Welfare and Institutions Code.
(2) The person shall be receiving services and case management from a regional center under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).
(3) An interdisciplinary team, through the individual program plan (IPP) process pursuant to Section 4646.5 of the Welfare and Institutions Code, shall have determined that the person lacks hazard awareness or impulse control and requires the level of supervision afforded by a facility equipped with delayed

egress devices, and that but for this placement, the person would be at risk of admission to, or would have no option but to remain in, a more restrictive state hospital or state developmental center placement.

(e) The facility shall be subject to all fire and building codes, regulations, and standards applicable to residential care facilities for the elderly utilizing delayed egress devices, and shall receive approval by the county or city fire department, the local fire prevention district, or the State Fire Marshal for the installed delayed egress devices.

(f) The facility shall provide staff training regarding the use and operation of the egress control devices utilized by the facility, protection of residents' personal rights, lack of hazard awareness and impulse control behavior, and emergency evacuation procedures.

(g) The facility shall develop a plan of operation approved by the State Department of Social Services that includes a description of how the facility is to be equipped with egress control devices that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143.

(h) The plan shall include, but shall not be limited to, all of the following:

(1) A description of how the facility will provide training for staff regarding the use and operation of the egress control devices utilized by the facility.

(2) A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code.

(3) A description of how the facility will manage the person's lack of hazard awareness and impulse control behavior.

(4) A description of the facility's emergency evacuation procedures.

(i) Delayed egress devices shall not substitute for adequate staff. Except for facilities operating in accordance with Section 1531.15, the capacity of the facility shall not exceed six residents.

(j) Emergency fire and earthquake drills shall be conducted at least once every three months on each shift, and shall include all facility staff providing resident care and supervision on each shift."

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(19) For a county licensed to operate a short-term residential therapeutic program, a description of its conflict-of-interest mitigation plan, as set forth in Welfare and

Institutions Code section 11462.02(g).

(20) A process for continuous quality improvement as specified in Section 87081.

(d) The plan of operation shall demonstrate an understanding of and ability to provide an integrated program of specialized and intensive care and supervision, services and supports, treatment, and short-term 24-hour care and supervision that is culturally relevant, trauma-informed, and age and developmentally appropriate, to meet the individual needs of children and nonminor dependents described by Health and Safety Code section 1502.4 and the population(s) being served.

(e) Any changes in the plan of operation which affect the services to population(s) being served shall be subject to licensing agency approval and shall be reported as specified in Section 87061.

(f) The facility shall operate in accordance with the terms specified in the plan of operation and may be cited for not doing so in accordance with Section 87051.

NOTE: Authority: Section 1501, 1530, and 1531, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Chapter 86, Section 57. Reference: Sections 1501, 1502, 1502.4, 1507, 1512, 1520, 1528, 1531, 1531.1, and 1562.01, Health and Safety Code.

87022.1 PROGRAM STATEMENT.

(a) A facility shall have and maintain on file a current, written, definitive program statement that meets the requirements of this section. All components of the program statement shall demonstrate an understanding and ability to provide an integrated program of specialized and intensive care and supervision, services and supports, treatment, and short-term 24-hour care and supervision that is culturally relevant, trauma-informed, and age and developmentally appropriate, to meet the individual needs of children and nonminor dependents described by Health and Safety Code section 1502.4 and the population(s) being served.

(1) A program statement that is culturally relevant will include interventions, practices, services and supports that recognize the diverse backgrounds of children, nonminor dependents, and their families, and will describe how staff will implement these culturally relevant approaches in a manner that acknowledges the diversity of the children, nonminor dependents, and their families, while facilitating equity and inclusion.

(A) The program statement shall demonstrate how the interventions, practices, services and supports shall be tailored to the unique cultural characteristics of the child or nonminor dependent so that the services are relevant from the child's or nonminor dependent's perspective and appropriate to their needs without denying or delaying an available and appropriate placement because of actual or perceived race, color, ancestry, national origin, or ethnic group identification, religion, sex, sexual orientation, gender identity and expression, mental or physical disability, medical condition, genetic information, marital status, ~~or~~ HIV status, citizenship, immigration status or primary language.

(B) Culturally relevant services may include, but are not limited to, mentoring, educational enrichment, college and career prep, arts, recreation, cultural and ethnic studies, cultural healing practices, permanency services, self-

awareness and health programming that accounts for the diverse backgrounds of the children and nonminor dependents served.

(2) A program statement that is trauma-informed, as specified in Section 87078.2, will include descriptions and details of trauma-informed interventions, treatment practices, de-escalation and harm reduction techniques, services and supports that recognize and adequately demonstrate how the program addresses each of the following:

(A) A child or nonminor dependent's need to feel safe, be respected, informed, connected, and hopeful regarding their own experience with trauma.

(B) The interrelationship between trauma and impacts of trauma including, but not limited to, neuro-cognitive problems, neuro-psychological issues such as depression and anxiety, and behaviors.

(C) The need to work in a collaborative way with a child or nonminor dependent, their family and friends, and human services agencies in a manner that will empower the child or nonminor dependent.

(D) Interventions, techniques, and practices that are trauma-informed, culturally relevant, age and developmentally appropriate as provided by direct care staff to a child or nonminor dependent consistent with a child's or nonminor dependent's needs and services plan and treatment plan.

(b) The program statement shall contain a description of the following:

(1) On and after October 1, 2021, a description of how the short-term residential therapeutic program will meet requirements specified in these interim licensing standards for both of the following:

(A) A comprehensive trauma-informed treatment model designed to address the individualized needs of children, as specified in this Section and Section 87078.2.

1. This description shall include the trauma-informed interventions and treatment practices, that will be used in serving children,

nonminor dependents, and families, as specified in Section 87022.1(b)(7).

(B) A plan for how the short-term residential therapeutic program will make licensed nursing staff available, as set forth in Section 87089.2.

(2) The population or populations to be served, to include, the age range, gender and the categories of persons to be served.

(A) If the facility plans to serve a specific population, the program statement shall include any details for any specific models or interventions that will be used to tailor their services to their specific population, including the cultural characteristics of that population, the culturally relevant approaches to be used that reflect the diversity within that population, and how the facility will serve lesbian, gay, bisexual, transgender, or queer/questioning children, nonminor dependents, and families.

1. The facility shall engage the specific community as well as community-based organizations and providers who work with their specific population.

(B) If the facility intends to serve nonminor dependents, it shall include a description of programs or services to be provided consistent with assisting a nonminor dependent in preparing for the transition to independent living.

(C) If the facility intends to serve children with special health care needs, it shall include a statement that it meets all requirements for a specialized short-term residential therapeutic program, as defined in 87001(s)(~~5~~6), a description of its program or services to be provided to this population, and a description of how the programs and services meet the requirements as specified in these interim licensing standards including, but not limited to, Sections 87010.2, 87064.1, 87065.05, 87065.6, 87066.1, 87068.12, 87069.2, 87070.2, 87072.3, and 87087.1.

(3) Ability to support:

(A) The individual needs of children, nonminor dependents, and their families, with short-term, specialized, trauma-informed, and intensive treatment, including, but not limited to, treatment that implements child-specific short- and long-term needs and goals identified by the qualified individual's assessment of the child pursuant to subdivision (g) of Section 4096 of the Welfare and Institutions Code.

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Welfare and Institutions Code subdivision (g) of Section 4096 in part provides:

"(g) (1) For a placement in a short-term residential therapeutic residential program, a community treatment facility, as defined in paragraph (8) of subdivision (a) of Section 1502 of the Health and Safety Code, or in an out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code, made on or after October 1, 2021, a qualified individual, as defined pursuant to subdivision (l) of Section 16501, shall conduct an assessment pursuant to this subdivision if the child is placed by a county child welfare or probation placing agency.

(2) (A) Unless the placement is an emergency placement pursuant to paragraph (3) of subdivision (h) of Section 11462.01, the qualified individual shall conduct an independent assessment and determination regarding the needs of the child prior to placement in a short-term residential therapeutic residential program, in a community treatment facility, or in an out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code. In the event of an emergency placement, the qualified individual shall conduct the independent assessment and determination regarding the needs of the child within 30 days of the start of the placement.

(B) In connection with the activities required by the qualified individual, placing agencies shall adopt, and all parties to the child's case shall utilize, the universal release of information identified by the State Department of Social Services and the State Department of Health Care Services.

(3) The assessment conducted by the qualified individual shall include, at a minimum, all of the following:

(A) Engagement with the child and family team members and, in the case of an Indian child, the Indian child's tribe, in conducting the assessment.

(B) An assessment of the strengths and needs of the child or nonminor dependent, using an age-appropriate, evidence-based, validated, functional assessment tool

and methodology approved by the State Department of Social Services and the State Department of Health Care Services. If the authorized assessment tool has already been completed as part of the child and family team within the last two months, the qualified individual may utilize or update those results at the discretion of the qualified individual. If the assessment tool was completed more than two months before the referral to a qualified individual, the qualified individual shall update those results.

(C) The identification of the child-specific short- and long-term mental and behavioral health goals and treatment needs of the child.

(D) In the case of an Indian child, the qualified individual's efforts to consult with the child's tribe. The qualified individual shall consult and confer with a representative of the child's tribe or, at the direction of the tribal representative, the qualified expert witness, as described in Section 224.6. Such consultation shall include, but not be limited to, determination of the social and cultural standards of the Indian child's tribe.

(4) The qualified individual shall determine and document the following in writing:

(A) Whether the assessed needs of the child or nonminor dependent can be met with family members, in a tribally approved home in the case of an Indian child, or in another family-based setting.

(B) If the child or nonminor dependent's needs cannot be met with family members, in a tribally approved home in the case of an Indian child, or in another family-based setting, all of the following:

(i) Why the needs of the child cannot be met with family members of the child or in another family-based setting identified by the placing agency, or in a tribally approved home in the case of an Indian child.

(ii) Why a short-term residential therapeutic program, or, where applicable , a community treatment facility, as defined in paragraph (8) of subdivision (a) of Section 1502 of the Health and Safety Code, or an out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code, is the setting that will provide the child with the most effective and appropriate level of care in the least restrictive environment.

(iii) How a short-term residential therapeutic program intervention, or where applicable, the program intervention of a community treatment facility or an out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code, is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child, and for an Indian child, will meet the child's needs consistent with the prevailing social and cultural conditions and way of life of the Indian child's tribe.

(iv) The mental and behavioral health interventions and treatment that the program will implement to improve functioning and well-being and, for an Indian child, how the interventions and treatment will be conducted in a manner consistent with

the prevailing social and cultural conditions and way of life of the Indian child's tribe.
(v) Any known multiagency care coordination needs that should be planned for during discharge and aftercare planning, as developed pursuant to Section 4096.6, upon the child's transition to a family-based setting.
(C) The engagement with the child and family team members and, in the case of an Indian child, the Indian child's tribe.
(5) The assessment of the qualified individual does not replace or replicate existing case management activities, roles, and responsibilities of the county placing agency caseworker in preparation for the child's case plan pursuant to Section 16501.1 or requirements of the interagency placement committee established pursuant to this section.
(6) The qualified individual shall provide the assessment required by paragraph (3) and the report required by paragraph (4) to the county placing agency and the short-term residential therapeutic program, or, where applicable, the community treatment facility, as defined in paragraph (8) of subdivision (a) of Section 1502 of the Health and Safety Code, or the out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code, in which the child or nonminor dependent is or will be placed."

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(B) To support children, nonminor dependents, and their families from different backgrounds or experiences, including race, ethnicity, sexual orientation, gender identity, or a child or nonminor dependent who is gender non-conforming.

(4) Emergency and disaster response services to be provided by the facility.

(5) Transportation arrangements, as specified in Section 87074.

(6) The core services and supports, as specified in Section 87078.1, to be offered to children, nonminor dependents and their families, as appropriate or necessary. This shall include the ability to support the practices that will be used to ensure all core services and supports are trauma-informed, age and developmentally appropriate, and culturally relevant. The program statement shall include copies of all agreement(s) if any, with other agencies to provide core services and supports.

(7) The trauma-informed interventions, treatment practices, or both, that will be used in serving children, nonminor dependents, and families, as specified by Section 87078.2.

(8) The procedures for the development, implementation, and periodic updating of the needs and services plan for children and nonminor dependents served by the short-term residential program, as specified in Sections 87068.2, 87068.22, and 87068.3, and procedures for collaborating with the child and family team that include a description of the following:

(A) The services to be provided or arranged to meet the short- and long-term needs and goals of the child or nonminor dependent as assessed by the qualified individual pursuant to Welfare and Institutions Code, Sections 11462.01 and 4096.

(B) Processes to ensure treatment is consistent with the short- and long-term needs and goals for the child or nonminor dependent, including as specified in the child's or nonminor dependent's permanency plan.

(C) A plan to have discussions with the child regarding placement in the facility, needs and expectations while in placement, as well as any transitions to home-based care or to a less restrictive family environment. Discussions must be age and developmentally appropriate and documented in the child's or nonminor dependent's needs and services plan as provided in Section 87068.2(e) or 87068.22(c).

(D) The anticipated duration of treatment.

(E) Processes to ensure that consistent progress is made toward the timeframe and plan for transitioning the child or nonminor dependent to a less restrictive family environment.

(F) The procedure to ensure the child or nonminor dependent's needs and services plan is consistent with the case plan including the needs as

identified by the qualified individual, as developed by the county placing agency and recommendations by the child and family team.

(G) The procedures to support the reasonable and prudent parent standard, as specified in Section 87067.

(9) A written plan for activities, as specified in Section 87079.

(A) If the facility provides vocational training, it shall include the skills taught, goals of the training, hands-on experience received, materials provided, number of hours per day/days per week, and funding.

(10) The name, location, and services provided by an agency or agencies that the applicant or licensee has partnered with, either formally or informally, to provide additional supports and services to families and children including nonminor dependents during care and post-permanency.

(11) The plan for participation in child and family teams, including when the provider will request a child and family team meeting if needed.

(12) (A) A description of how the facility, in accordance with the child's case plan and the child and family team recommendations, will provide for, arrange for the provision of, or assist in, all of the following:

1. Identification of home-based settings for a child who does not have a home-based caregiver identified for transition, in accordance with subparagraph (C)(vii) of paragraph (2) of subsection (d) of section 1562.01 of the Health and Safety Code.

2. Development of an individualized family-based aftercare support plan that identifies necessary supports, services, and treatment to be provided for at least six months postdischarge as a child moves from the short-term residential therapeutic program to home-based family care setting or to a permanent living situation through reunification, adoption, or guardianship, or to a transitional housing program. This plan shall be developed, pursuant to section 4096.6 of

the Welfare and Institutions Code, in collaboration with the county placing agency, the child and family team, and other necessary agencies or individuals for at least six months postdischarge.

(i) Aftercare services may be provided by but not be limited to a short-term residential therapeutic program, county placing agency, child welfare agency, probation department, mental health plan, or other agencies or individuals pursuant to Section 4096.6 of the Welfare and Institutions Code.

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Health and Safety Code subdivision 1562.01(d)(2)(C)(vii) provides:

"(d)(2) The plan of operation shall include, but not be limited to, all of the following:
(C) A program statement that includes all of the following:
(vii) (I) A description of how the short-term residential therapeutic program, in accordance with the child's case plan and the child and family team recommendations, will provide for, arrange for the provision of, or assist in, all of the following:
(ia) Identification of home-based family care settings for a child who does not have a home-based caregiver identified for transition and pursuant to clause (viii).

(ib) Development of an individualized family-based aftercare support plan that identifies necessary supports, services, and treatment to be provided for at least six months postdischarge as a child moves from their short-term residential therapeutic program placement to home-based family care setting or to a permanent living situation through reunification, adoption, or guardianship, or to a transitional housing program. This plan shall be developed, pursuant to Section 4096.6 of the Welfare and Institutions Code, in collaboration with the county placing agency, the child and family team, and other necessary agencies or individuals for at least six months postdischarge. Federal financial participation under the Medi-Cal program shall only be available if all state and federal requirements are met and the treatment is medically necessary, regardless of the six months postdischarge requirement. (ic) Documentation of the process by which the short- and long-term, child-specific mental health goals identified by a

qualified individual, as defined in Section 16501 of the Welfare and Institutions Code, pursuant to subdivision (g) of Section 4096 of the Welfare and institutions Code, will be implemented by the short-term residential therapeutic program."

Welfare and Institutions Code subdivision 4096.6(b)(1) provides:

"On and after October 1, 2021, each county child welfare agency, probation department, and mental health plan, in consultation with the local interagency leadership team established pursuant to Section 16521.6, shall jointly provide, arrange for, or ensure the provision of, at least six months of aftercare services for youth in the placement and care responsibility of the county child welfare or county probation agency who are discharged from a short-term residential therapeutic program, or from an out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code, to a family-based setting. Federal financial participation under the Medi-Cal program shall only be available if all state and federal requirements are met and the service is medically necessary, regardless of the six months postdischarge requirement."

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3. Documentation of the process by which the short-term residential therapeutic program will implement treatment and services to support the short- and long- term, child-specific mental health goals identified by a qualified individual pursuant to subdivision (g) of Section 4096 of the Welfare and Institutions Code.

(B) Paragraph (A) shall not be interpreted to supersede the placement and care responsibility vested in the county child welfare agency or probation department.

(13) (A) On and after October 1, 2021, a description of how the short-term residential therapeutic program will, to the extent clinically appropriate, consistent with any applicable court orders, in consultation with the placing agency, and in accordance with the child's best interest, do all of the following:

1. Facilitate participation of family members , including siblings, in

the child's treatment program, including but not limited to the needs and services plan, the transition plan, pursuant to Section 1562.01(d)(2)(C)(iv) of the Health and Safety Code, and plan for aftercare services.

2. Facilitate communication with the family members of the child, including siblings, document how the outreach is made, including contact information, and maintain contact information for any known biological family and nonrelative extended family members of the child.

(i) Engage the child to determine the preferred family members they would like to interact with to the extent clinically appropriate. The child's preferred family members can be either biological family and/or nonrelative extended family members of the child.

3. Document how family members, including siblings will be integrated into the treatment process for the child, including postdischarge, and how sibling connections are maintained.

(B) Paragraph (A) shall not be interpreted to supersede the placement and care responsibility vested in the county child welfare agency or probation department.

(14) A description of the following policies and procedures:

(A) Complaints and grievance, as described in Section 87072.2.

(B) Participation and assistance with any county or state initiatives to improve the child welfare system.

(C) Family visitation and other communication with children and nonminor dependents pursuant to Health and Safety Code section 1512.

(D) Compliance with personal rights as set forth in Section 87072. Licensees serving children with special health care needs shall comply

with personal rights as set forth in Section 87072.3.

(E) House rules.

1. The description shall include how trauma-informed practices are incorporated into the facility's house rules, and how the house rules are culturally relevant, and age and developmentally appropriate.

(F) For children, positive discipline policies and procedures including the type(s) of discipline permitted and rationale, conditions under which each type of discipline will be used, types not permitted, provisions for informing the child's authorized representative(s), including the child's attorney if applicable, of discipline policies, as specified in Section 87072.1. This description must include how the types of discipline are~~is~~ trauma-informed and age and developmentally appropriate.

(G) For nonminor dependents, expectations and consequences policies and procedures including the type(s) of consequences permitted and rationale, conditions under which each type of consequence will be used, as specified in Section 87072.11. This description must include how the types of expectations and consequences are trauma-informed and age and developmentally appropriate.

(H) Storage of medications as specified in Section 87075 and California Code of Regulations, Title 22, Section 80075.

(I) Safeguards for cash resources, personal property, and valuables as set forth in Section 87026.

(J) A process for getting direct input from the child, as age and developmentally appropriate, to inform program development and improvement.

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Health and Safety Code section 1512 provides:

"Each residential community care facility shall state, on its client information form or admission agreement, and on its patient's rights form, the facility's policy concerning family visits and other communication with resident clients and shall, except as otherwise provided in this section, promptly post notice of its visiting policy at a location in the facility that is accessible to residents and families. The requirement that a facility post notice of the facility's visiting policy does not apply to any facility serving six or fewer clients.
The community care facility's policy concerning family visits and communication shall be designed to encourage regular family involvement with the resident client and shall provide ample opportunities for family participation in activities at the facility."

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(K) Any other policies or procedures.

(15) Documentation of accreditation, as required by Section 87089.

(16) Documentation of a current mental health program approval, as required by Section 87089.1.

(A) A description of each mental health treatment service the facility will directly provide to children and nonminor dependents, as necessary, which may include, but is not limited to, the following:

1. Mental health services.
2. Specialty mental health services.
3. Crisis intervention.
4. Medication support services.
5. Targeted case management.
6. Therapeutic behavioral services.
7. Day treatment services.
8. Day rehabilitation.
9. Peer support.

(B) If a mental health approval has not yet been obtained, the program statement will include a description of how the short-term residential therapeutic

program will meet the mental health service needs of children as required by Section 87089.1

(17) Food and nutritional plan including:

(A) Sample menus.

(B) A schedule for one calendar week indicating the time of day that meals and snacks are to be served.

(C) A plan for how the facility will accommodate a child's special dietary needs.

(D) A list of vendors contracted to provide nutritional services.

(18) A written emergency intervention plan, including a runaway plan, as specified in Sections 87095, 87095.01, 87095.22, 87095.23, and 87095.24.

(19) A licensee who utilizes, or intends to utilize, video cameras must include the following information in their program statement:

(A) The purpose of the video cameras.

(B) The location of each video camera shown on the facility and grounds sketches described in Section 87022(c)(4) and (5) and the direction(s) at which each video camera is pointing.

(C) How and when the licensee will inform children, authorized representatives, and placement workers of the purpose and location of all video cameras, as specified in Section 87088.1(a)(6).

(D) How the licensee will work with placing agencies to address situations in which a child objects to video cameras.

(E) How video cameras will be used in a trauma-informed manner.

(F) A description of how each camera will be operated, including the following information.

1. A description of the video camera's technology, including whether the video camera is livestreaming only or capable of saving recordings and whether the camera has audio, and if so, how audio

will be disabled, muted or turned down, pursuant to Section 87088.1(a)(5).

2. How recordings are triggered, whether scheduled, or by motion sensor or otherwise, if applicable.

3. A list of individual staff positions that have access to the livestream and/or recordings.

4. A description of how access to the livestream and/or recordings shall be safeguarded and stored, as applicable.

(~~19~~20) Any other information that may be prescribed by the department for the proper administration of this section.

(c) (1) Any changes in the program statement which affect the services to children or nonminor dependents shall be subject to licensing agency approval.

(2) A facility shall submit a copy of its program statement to all county placing agencies from which the facility accepts placements, including the county in which the facility is located, for optional review.

(A) A facility shall submit to the licensing agency a statement of declaration listing all of the county placing agencies its program statement was submitted to pursuant to paragraph (2) above.

(d) The facility shall operate in accordance with the terms specified in the plan of operation.

NOTE: Authority: Section 1501, 1530, 1531, 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Chapter 86, Section 57. Reference: Sections 1501, 1502, 1502.4, 1507, 1512, 1520, 1522.45, 1530.91, 1531, 1531.1, and 1562.01, Health and Safety Code; Sections 16001.9, and 11462.01, Welfare and Institutions Code.

87026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES.

(a) In addition to California Code of Regulations, Title 22, Section 80026, the following shall apply.

(b) The licensee shall have written policies and procedures outlining how the licensee will safeguard the cash resources, personal property and valuables of the child, including policies to ensure that cash resources are not taken from the child in the form of fines. The policies and procedures shall be approved in advance by the licensing agency as part of the licensee's program statement.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1522.44, 1562.01 and 1531, Health and Safety Code; Section 362.05, Welfare and Institutions Code.

87030 PROVISIONAL LICENSE.

(a) California Code of Regulations, Title 22, Section 80030 shall not apply to a short term residential therapeutic program licensee or applicant.

(b) An applicant who completes an application and who meets the regulatory and statutory requirements shall receive a provisional license for the first twelve months.

(1) After eight months of operation, the licensing agency shall conduct a comprehensive review of the facility for compliance with all applicable laws and regulations, including progress of the facility toward obtaining mental health program approval, and help develop a plan of correction with the provisional licensee, if appropriate.

(2) Before the first business day of the thirteenth month of operation, if the licensing agency determines that the facility is in substantial compliance with licensing standards, the licensing agency shall issue a permanent license except as provided in Section 87030(c).

(c) If the licensing agency determines that the facility is in substantial compliance with licensing standards, the licensing agency may extend the provisional license for up to an additional six months for the reasons described in subparagraph (1) or (2), or up to an additional 12 months for the reason described in subparagraph (3):

(1) The facility requires additional time to be in full compliance with licensing standards.

(2) After twelve months of operation, the facility is not operating at fifty percent of its licensed capacity.

(3) The facility requires additional time to complete the mental health program approval as set forth in Section 87089.1(b). The licensing agency may require ongoing documentation to ensure progress toward mental health program approval. The licensing agency may also require ongoing documentation that the licensee is ensuring access to specialty mental health services during provisional licensure.

(d) By no later than the first business day of the seventeenth month of operation, the licensing agency shall conduct an additional review of a facility for which a provisional license is extended pursuant to Section 87030(c), to determine whether a permanent license should be issued.

(e) Under the following conditions a licensee with a permanent license may apply for a provisional license:

(1) A temporary change in facility location of not more than six months due to unforeseen circumstances beyond the control of the licensee (i.e. flood, earthquake, etc.).

(A) The licensing agency shall have the authority to authorize a temporary facility change following a licensing agency review, a finding of substantial compliance with licensing standards, and the securing of an appropriate fire clearance.

(f) If, during the provisional license period, the licensing agency discovers any serious deficiencies, the licensing agency shall have the authority to institute administrative action, or civil proceedings, or to refer the case for criminal prosecution. As one of the options under the administrative action process, the licensing agency may deny a license application at any time during the term of the provisional license to protect the health and safety of children placed in the facility. If the licensing agency denies the application, the facility shall cease operation immediately. Continued operation of the facility after the licensing agency denies the application or after the provisional license expires shall constitute unlicensed operation.

(g) A provisional license shall not be renewable and shall terminate on the date specified on the license or upon denial of the application, whichever is earlier.

(h) If an applicant has an existing group home or short-term residential therapeutic program license with probationary conditions imposed by the Department, the Department may apply the same probationary conditions to a newly granted short-term residential therapeutic program license.

NOTE: Authority Cited: Sections 1530, 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501. 1520, 1520.1, 1524, 1525.5, 1531 and 1562.01, Health and Safety code

87031 ISSUANCE OF A LICENSE.

(a) California Code of Regulations, Title 22, Section 80031 shall not apply.

(b) An applicant who completes an application and who meets the regulatory and statutory requirements shall receive a provisional license for the first twelve (12) months of operation and during that period shall be evaluated for a permanent license.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1509, 1520, 1520.1, 1520.5, 1525 and 1531.5, Health and Safety Code.

87031.1 ISSUANCE OF A PROVISIONAL LICENSE.

(a) California Code of Regulations, Title 22, Section 80027 shall apply to a short term residential therapeutic program licensee or applicant.

(b) Within ninety (90) days of the date that a completed application, as defined in California Code of Regulations, Title 22, Section 80001(c)(14), has been received, the licensing agency shall give written notice to the applicant of one of the following:

(1) A provisional license has been approved for the first twelve months of operation pending a comprehensive review and final evaluation for a permanent license, and whether any conditions are placed on the license.

(2) The application has been denied.

(A) The notice of denial shall include the information specified in California Code of Regulations, Title 22, Section 80040(b)(1).

(3) The licensing agency has determined that the application requires further review or revisions.

(A) Further review or revisions may include, but are not limited to, requests for additional development of application components, requests for additional programmatic details, requests for clarification of application components, or analysis of application components or revisions.

(B) Following issuance of a written notice pursuant to 87031.1(b)(3), the licensing agency shall keep the applicant apprised of the review process no less than every thirty (30) days thereafter until the review is completed and the licensing agency gives written notice to the applicant of approval of a provisional license or denial of the application.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1509, 1520, 1520.1, 1520.5, 1525, 1526 and 1531.5, Health and Safety Code; and Section 15376, Government Code.

87031.2 ISSUANCE OF A PERMANENT LICENSE.

(a) Before the first business day of the thirteenth month after the effective date of the provisional license, as defined in Section 87030, or before the first business day of the nineteenth month if an extension was granted in accordance with Section 87030(c), the licensing agency shall give written notice to the applicant of one of the following:

(1) A permanent license has been approved, and whether any conditions are placed on the license.

(2) The application has been denied.

(A) The notice of denial shall include the information specified in California Code of Regulations, Title 22, Section 80040(b)(1).

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1509, 1520, 1520.1, 1520.5, 1525, 1526, 1550 and 1562.01 Health and Safety Code.

87037 CLOSURE PLANS.

(a) In addition to California Code of Regulation, Title 22, Section 80035 and Section 80042, the following shall apply.

(b) If a license is suspended, revoked, or forfeited, or if there is a denial during the term of the provisional license, pursuant to Health and Safety Code sections 1520.1, 1524, or 1550, as applicable, the administrator or their designee shall provide the Department and all applicable placing agencies with a notice of closure.

(1) The notice of closure shall include the facility's closure date.

(2) The notice of closure shall be provided at least 60 days before the closure date, or 60 days before the date the license is suspended, revoked, or forfeited, or there is a denial during the term of provisional license, whichever is earlier.

(3) For each foster child placed in the facility, the notice of closure shall include a request from the licensee to the child's placing agency to convene a child and family team meeting, pursuant to Welfare and Institutions Code section 16501, to provide input on the next placement for the child.

(c) The administrator or their designee shall also provide the notice of closure, as specified in subsection (b), to all other applicable parties that may be affected by the closure, including, but not limited to:

(1) The child.

(A) The licensee shall ensure that communication about the closure is done in a manner that is trauma-informed, culturally relevant, and is age and developmentally appropriate.

(2) County mental health.

(3) Regional center.

(4) Mental health service providers.

(5) Medical care service providers.

(6) Child's authorized representative and attorney.

(7) Biological parents or legal guardian.

(8) Local court or placing court.

(9) Schools.

(10) In the case of an Indian child, the Indian child's Tribe(s), and Tribal representatives, if applicable.

(d) After providing the notice of closure, the administrator or their designee shall develop a closure plan and submit the plan to the Department for approval as soon as practically possible.

(e) The closure plan shall include the following information about each child that will be affected by the closure:

(1) Name of each child.

(2) Each child's placement agency, placement worker's name, telephone number, and the date the placement agency was provided the notice of closure.

(3) The other parties notified as specified in 87037(c), and the date the other parties were provided the notice of closure.

(4) Plan to relocate each child to new placement, including proposed timelines.

(5) Plan of action to help ensure that the child's services, supports, and treatments will be maintained and will follow them to their new placement which may include but is not limited to, the licensee's engagement with the child and family team meetings held pursuant to Welfare and Institutions Code section 16501, and provide for the assessment by a qualified individual as required by Welfare and Institutions Code section 4096.

(6) A staffing plan for continued operation of the facility until the closure is complete.

(f) Throughout the closure process, the administrator or their designee shall communicate any changes to the closure plan to the Department as soon as the information is available.

(g) The administrator or their designee shall notify the Department when the closure is complete and all children have relocated.

Note: Authority cited: Section 1530, Health and Safety Code; Sections 4096, 16501, Welfare and Institutions Code; Reference: Sections 1502.4, 1520.1, 1524, 1550, and 1562.01, Health and Safety Code; Sections 11462, 11462.01, 11466.1, 11466.21, and 16009.1, Welfare and Institutions Code.

ARTICLE 4. ADMINISTRATIVE ACTIONS

87040 DENIAL OF INITIAL LICENSE.

(a) In addition to California Code of Regulations, Title 22, Section 80040, the following shall apply.

(b) An application for licensure shall be denied when the applicant does not provide an LIC 9165 signed by each member of the board of directors or governing body, that includes the statement specified in Health and Safety Code section 1520.1(b)(1).

(c) Failure to meet all application requirements as specified in Section 87018 or failure to cooperate with the licensing agency in the completion of the application as described in Health and Safety Code section 1520(j) shall be grounds for denial of the license.

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Health and Safety Code section 1520.1(b)(1) states in pertinent part:

> ".[E]very member of . . . a short-term residential therapeutic program's board of directors or governing body shall, prior to becoming a member of the board of directors or governing body sign a statement that they understand their legal duties and obligations as a member of the board of directors or governing body and that the . . . short-term residential therapeutic program's operation is governed by laws and regulations that are enforced by the department, as set forth in the booklet. The applicant, provisional licensee, and licensee shall have this statement available for inspection by the department. For members of the board of directors or governing body when the booklet is produced, the licensee shall obtain this statement by the next scheduled meeting of the board of directors or governing body. Compliance with this paragraph shall be a condition of licensure."

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NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1520, 1520.1, and 1562.01, Health and Safety Code.

87044 INSPECTION AUTHORITY.

(a) In addition to California Code of Regulations, Title 22, Section 80044, the following shall apply.

(b) Pursuant to Health and Safety Code section 1562.01 (m), the department shall have the authority to inspect a short-term residential treatment center pursuant to the system of governmental monitoring and oversight developed by the department pursuant to Welfare and Institutions Code section 11462(c).

(c) The department shall have the inspection authority specified in Section 1538.7 and 1538.9 of the Health and Safety Code.

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Health and Safety Code Section 1562.01 (m) provides:

> "The department shall have the authority to inspect a short-term residential therapeutic program pursuant to the system of governmental monitoring and oversight developed by the department pursuant to subdivision (c) of Section 11462 of the Welfare and Institutions Code."

Health and Safety Code section 1538.7 provides:

> "(a) A group home, transitional housing placement provider, community treatment facility, youth homelessness prevention center, temporary shelter care facility, transitional shelter care facility, or short-term residential therapeutic program shall report to the department's Community Care Licensing Division upon the occurrence of any incident concerning a child in the facility involving contact with law enforcement. At least every six months, the facility shall provide a followup report for each incident, including the type of incident; whether the incident involved an alleged violation of any crime described in Section 602 of the Welfare and Institutions Code by a child residing in the facility; whether staff, children, or both were involved; the gender, race, ethnicity, and age of children involved; and the outcomes, including arrests, removals of children from placement, or termination or suspension of staff.
> (b) (1) If the department determines that, based on the licensed capacity, a facility has reported, pursuant to subdivision (a), a greater than average number of law enforcement contacts involving an alleged violation of any crime described in Section 602 of the

Welfare and Institutions Code by a child residing in the facility, the department shall inspect the facility at least once a year.
(2) An inspection conducted pursuant to paragraph (1) does not constitute an unannounced inspection required pursuant to Section 1534.
(c) If an inspection is required pursuant to subdivision (b), the Community Care Licensing Division shall provide the report to the department's Children and Family Services Division and to any other public agency that has certified the facility's program or any component of the facility's program including, but not limited to, the State Department of Health Care Services, which certifies group homes or approves short-term residential therapeutic programs pursuant to Section 4096.5 of the Welfare and Institutions Code."

Health and Safety Code section 1538.9 provides:

(a) (1) (A)The department shall consult with the State Department of Health Care Services and stakeholders to establish a methodology for identifying those group homes providing care under the AFDC-FC program pursuant to Sections 11460 and 11462 of the Welfare and Institutions Code that have levels of psychotropic drug utilization warranting additional review. The methodology shall be adopted on or before July 1, 2016.
(B) Every three years after adopting the methodology developed under subparagraph (A), or earlier if needed, the department shall consult with the State Department of Health Care Services and stakeholders and revise the methodology, if necessary.
(2) If the department, applying the methodology described in paragraph (1), determines that a facility appears to have levels of psychotropic drug utilization warranting additional review, it shall inspect the facility at least once a year.
(3) The inspection of the facility shall include, but not be limited to, a review of the following:
(A) Plan of operation, policies, procedures, and practices.
(B) Child-to-staff ratios.
(C) Staff qualifications and training.
(D) Implementation of children's needs and services plan.
(E) Availability of psychosocial and other alternative treatments to the use of psychotropic medications.
(F) Other factors that the department determines contribute to levels of psychotropic drug utilization that warrant additional review.
(G) Confidential interviews of children residing in the facility at the time of the inspection.
(4) The inspection of the facility may include, but is not limited to, the following:
(A) Confidential interviews of children who resided in the facility within the last six months.
(B) Confidential discussions with physicians identified as prescribing the medications.
(b) Following an inspection conducted pursuant to this section, the department, as it deems appropriate, may do either or both of the following:

(1) Share relevant information and observations with county placing agencies, social workers, probation officers, the court, dependency counsel, or the Medical Board of California, as applicable

(2) Share relevant information and observations with the facility and require the facility to submit a plan, within 30 days of receiving the information and observations from the department, to address any identified risks within the control of the facility related to psychotropic medication. The department shall approve the plan and verify implementation of the plan to determine whether those risks have been remedied.

(c) (1) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), until emergency regulations are filed with the Secretary of State, the department may implement this section through all-county letters or similar instructions.

(2) On or before January 1, 2017, the department shall adopt regulations to implement this section. The initial adoption, amendment, or repeal of a regulation authorized by this subdivision is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption, amendment, or repeal of an emergency regulation pursuant to this section, the department may twice request approval from the Office of Administrative Law to readopt the regulation as an emergency regulation pursuant to Section 11346.1 of the Government Code. The department shall adopt final regulations on or before January 1, 2018.

(d) This section does not do either of the following:

(1) Replaces or alters other requirements for responding to complaints and making inspections or visits to group homes, including, but not limited to, those set forth in Sections 1534 and 1538.

(2) Prevents or precludes the department from taking any other action permitted under any other law, including any regulation adopted pursuant to this chapter.

(e) The methodology developed pursuant to this section shall apply to short-term residential therapeutic programs, as defined in Section 1502, in a manner determined by the department.

(f) This section does not apply to a youth homelessness prevention center, a private alternative boarding school, or a private alternative outdoor program, as those terms are defined, respectively, in Section 1502.

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(d) The Department shall have the authority to view and obtain copies of any video footage or recording captured by cameras installed at the facility.

(1) The licensee shall provide copies or otherwise grant access to video recordings within 72 hours of a request by the Department.

(2) Recordings or footage requested by the Department shall be provided by the licensee to the Department via a DVD, USB drive, or a secure electronic or digital file transfer in a compatible format or some other agreed upon method.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1538.7, 1538.9, and 1562.01, Health and Safety Code.

87045 EVALUATION VISITS.

(a) In addition to California Code of Regulations, Title 22, Section 80045, the following shall apply.

(b) The licensee shall maintain licensing reports as specified in Health and Safety Code Section 1538.5(a)(3).

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Health and Safety Code Section 1538.5(a)(3) states in pertinent part:

> "A …short-term residential therapeutic program shall maintain, at the facility, a copy of all licensing reports for the past three years that would be accessible to the public through the department, for inspection by placement officials, current and prospective facility clients, and these clients' family members who visit the facility."

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NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126, AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1538.5, 1562.01, Health and Safety Code.

87046 EXCLUSIONS.

(a) In addition to California Code of Regulations, Title 22, Section 80046, the following shall apply.

(b) Pursuant to Welfare and Institutions Code section 16519.6(g)~~(14)~~, an individual excluded by the Department pursuant to the Health and Safety Code is prohibited from the following, unless otherwise ordered by the department:

(1) Presence in any resource family home;

(2) Employment in, presence in, and contact with clients of any facility licensed by the department or certified or approved by a licensed foster family agency;

(3) Holding the position of member of the board of directors or governing body, executive director, or officer of the licensee, of any facility licensed by the department.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1517, 1558, 1558.1, 1568.092, 1568.093, 1569.58, 1569.59, 1596.8897, 1596.8898, and 1796.41, Health and Safety Code; Section 16519.6(g), Welfare and Institutions Code.

87047 APPLICABILITY OF INTERIM LICENSING STANDARDS.

(a) The review of an application, criminal record clearance or exemption request shall be governed by the interim licensing standards in effect at the time of the decision to grant or deny the application, criminal record clearance or exemption request.

(b) The review of a licensee's, officer's, employee's or individual's compliance with licensing requirements shall be governed by the interim licensing standards in effect at the time of the condition, deficiency, incident or allegation at issue.

(c) Nothing in this section shall supersede any provision of federal or state law or any regulation adopted pursuant to federal or state law.

NOTE: Authority Cited: Sections 1530, and 1562.01(q), Health and Safety Code; Statutes 2015, Chapter 773, Section 123(b); Statutes 2016, Chapter 612, Section 131(b); and Statutes 2017, Chapter 732, Section 126(b); AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1522, 1530, and 1562.01, Health and Safety Code.

87048 CONDUCT OF HEARING; EVIDENCE AND PROCEDURES.

(a) All proceedings conducted in accordance with this Article shall be conducted in a manner that protects the confidential information and identity of a child or nonminor dependent as required by applicable law, including but not limited to, Health and Safety Code section 1536, Penal Code section 11167.5, and Welfare and Institutions Code sections 827 and 10850.

NOTE: Authority Cited: Sections 1530, and 1562.01(q), Health and Safety Code; Statutes 2015, Chapter 773, Section 123(b); Statutes 2016, Chapter 612, Section 131(b); Statutes 2017, Chapter 732, Section 126(b); AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Section 1536, and 1562.01, Health and Safety Code; Section 11167.5, Penal Code; and Sections 827 and 10850, Welfare and Institutions Code.

87048.1 DECISION; APPLICABILITY OF PRECEDENTIAL DECISIONS.

(a) A decision or proposed decision as a result of an administrative action shall be in writing and shall include a statement of the factual and legal basis for the decision and any other basis as required in any applicable law. A decision or proposed decision shall include, but not be limited to, the following:

(1) A concise and explicit statement of the underlying facts of record that support the decision.

(2) Any determinations on the weight of evidence or determinations of credibility that affect the findings and conclusions.

(3) Any determinations on the admissibility of evidence that affect the findings and conclusions.

(4) If the factual basis for the decision includes a determination based substantially on the credibility of a witness, the statement shall identify any specific evidence of the observed demeanor, manner, or attitude of the witness or content of the witness testimony that supports the determination.

(b) For any matter in which an applicant did not complete the application process prior to the filing of an administrative action, a provisional, probationary or permanent license shall not be granted but the relevant part of the action may be remanded so that the applicant may complete the application process. A proposed decision or decision shall include a time limit for the applicant to complete the process and shall clarify the effect of failure to meet the time limit. If upon completion of the application the Department determines that the applicant does not meet licensing standards, the Department shall provide due process in accordance with Health and Safety Code section 1526 et seq.

(c) For any matter in which the Department has determined that an applicant did not meet licensing standards as set forth in Sections 87022 and 87022.1, a proposed decision or decision following the filing of an administrative action shall grant a license only upon a determination based on the testimony of an expert witness, as defined in Evidence Code, Section 720, or similar evidence

that the applicant meets licensing standards, including, but not limited to, the requirements of Sections 87022, 87022.1 and 87030. The determination shall meet the requirements of subsection (a).

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Evidence Code section 720 provides:

> "(a) A person is qualified to testify as an expert if he has special knowledge, skill, experience, training, or education sufficient to qualify him as an expert on the subject to which his testimony relates. Against the objection of a party, such special knowledge, skill, experience, training, or education must be shown before the witness may testify as an expert.
>
> (b) A witness' special knowledge, skill, experience, training, or education may be shown by any otherwise admissible evidence, including his own testimony."

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NOTE: Authority Cited: Sections 1530, and 1562.01(q), Health and Safety Code; Statutes 2015, Chapter 773, Section 123(b); Statutes 2016, Chapter 612, Section 131(b); Statutes 2017, Chapter 732, Section 126(b); AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1520, 1520.1, 1526, 1550(a), 1551, 1558, and 1562.01, Health and Safety Code; and Section 11517(c), Government Code.

ARTICLE 5. ENFORCEMENT PROVISIONS

87051 SERIOUS DEFICIENCIES.

(a) In addition to 80051, a short-term residential therapeutic program that fails to operate according to its plan of operation and program statement, or both, may be cited for a serious deficiency.

NOTE: Authority cited: Sections 1501, 1530, 1531, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017,
Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1530.8 and 1562.01, Health and Safety Code.

ARTICLE 6. CONTINUING REQUIREMENTS

87061 REPORTING REQUIREMENTS.

(a) In addition to California Code of Regulations, Title 22, Section 80061, the following shall apply. Subsections (d) and (i)(8) in this section shall not apply to nonminor dependents.

(b) The licensee shall ensure that the child's authorized representative is notified no later than the next business day if the following circumstances have occurred without the authorized representative's participation:

(1) The child has been placed in the facility under emergency circumstances.

(2) The child has been removed from the facility.

(3) ~~Each time t~~The child has been placed in a manual restraint, ~~to be reported as required~~ as specified in Section 87095.61.

(4) Any unusual absence or failure of a child to return or inform the facility that they are not returning for a specified period of time.

(A) If a child is identified to be at risk of being, or having been, commercially sexually exploited and the child has not informed the facility of an absence, the licensee shall report the absence to the authorized representative as soon as is reasonably possible but no later than 24 hours.

(c) The licensee shall ensure that the child's authorized representative is sent prior written notification regarding the need for nonemergency relocation of the child to another facility.

(d) The licensee shall ensure that the child's authorized representative is notified if the child is not enrolled in or regularly attending school.

(e) The licensee shall notify the Department, in writing, within ten (10) calendar days of any change in the facility administrator.

(f) The licensee shall notify the Department, in writing, within ten (10) calendar days of any change in the mental health program head of service. If a new mental health program head of service is hired, the notification shall include the following:

(1) Name, facility address, and mailing addresses of the new head of service.

(2) Date assumed position.

(g) The licensee shall notify the licensing agency in writing within ten (10) business days of acquiring a new member of the board of directors or governing body. The notification shall include the following:

(1) Name and mailing address of the new member of the board of directors or governing body;

(2) Date the new member joined the board of directors or governing body, and;

(3) A copy of the LIC 9165 signed by the new member of the board of directors or governing body.

(h) The licensee shall notify the Department, in writing, within ten (10) calendar days of the hiring of a new administrator. The notification shall include the following:

(1) Name, and residence and mailing addresses of the new administrator.

(2) Date assumed position.

(3) Description of background and qualifications, including documentation of required education and administrator certification.

(A) A photocopy of the documentation shall be permitted.

(i) Incident Reports must include the following:

(1) Date, time, duration and location of the incident.

(2) A detailed narrative, describing the incident and the events leading up to the incident, and if applicable, describe the steps taken to de-escalate the situation.

(3) Descriptions of trauma-informed interventions and practices used to identify and address the child's specific behavioral patterns in response to an incident.

(4) Description of the facility's plan for the child in response to the incident, including modifications to the child's needs and services plan.

(5) Description of the action that was taken by facility personnel to reintegrate the child with the other children in the facility after the incident.

(~~4~~6) Analysis of ~~the~~ previous incidents:

(A) State whether there were other reportable incidents involving the same child in the preceding six months.

~~(B)~~1. Provide a ~~D~~description of the ~~other~~ previous incidents that includes the following:~~.~~

~~1.~~ i. Dates of previous incidents.

~~2.~~ ii. Types of previous incidents~~., including~~

iii. ~~n~~Names of facility personnel involved.

~~3.~~ iv. Action taken by facility personnel in response to previous incidents.

v. The previous modifications to the child's needs and services plan.

~~(C)~~2. State whether there are commonalities between this incident and other previous incidents involving the same child in the preceding six months.

i. If commonalities are identified, the incident report shall include whether the facility involved the placement agency and the child and family team following each incident. The incident report shall also include the placement agency's and child and family team's response and engagement.

~~(5) Description of the facility's plan for the child in response to the incident, including modifications to the child's needs and services plan. If the child has been involved in previous incidents, explain what the previous modifications were to the child's needs and services plan.~~

~~(6) Description of the action that was taken by facility personnel to reintegrate the child with the other children in the facility after the incident.~~

(7) Incident Reports documenting the use of manual restraints must include the following:

(A) Date and time of other manual restraints involving the same child in the past 24 hours.

(B) A description of the child's behavior that required the use of manual restraints, and description of the precipitating factors which led to the intervention**.**

(C) Description of what manual restraints were used, and how long the child was restrained.

(D) Description of what non-physical interventions, trauma-informed practices, or de-escalation techniques were utilized prior to the restraint and an explanation of why more restrictive interventions were necessary.

(E) Description of any injuries sustained by the child or facility personnel, including what type of medical treatment was sought and where the child was taken. Provide an explanation if medical treatment was not sought for injuries.

(F) The child's verbal response and physical appearance at the completion of the restraint.

(~~F~~G) Name(s) of facility personnel who conducted the manual restraint.

(~~G~~H) Name(s) of facility personnel who witnessed the child's behavior and the restraint.

~~(H) The child's verbal response and physical appearance, including a description of any injuries at the completion of the restraint.~~

(I) If it is determined by the post incident review, as required in Section 87095.68, that facility personnel did not attempt to prevent the manual restraint, provide a description of what action should have been taken by facility personnel to prevent the manual restraint incident. Describe the

corrective action that will ~~be taken~~ or will not be taken against the facility personnel and why.

(J) If law enforcement was involved, a detailed description of the events involving the law enforcement contact, including a police report number if available.

(K) Documentation that the child's authorized representative has been notified of the incident as specified in 87095.61(a).

(L) A copy of the written description provided to the child subject to the manual restraint, as specified in 87095.61(f).

(8) Incident Reports documenting a runaway situation of a child must include the following:

(A) When, how and by whom was the child's absence first noted.

(B) The child's last known activities.

(C) What were the circumstances surrounding the child's absence.

(D) What action did the facility personnel take to discourage the child from leaving and what interventions were utilized.

(E) What action was taken by facility personnel to locate the child.

(F) If a manual restraint was used, and if it is determined by the post incident review, as required in Section 87095.68, that facility personnel did not attempt to prevent the manual restraint, a description of what action should have been taken by facility personnel to prevent the manual restraint incident. Describe the corrective action that will be taken or will not be taken against the facility personnel and why.

(G) If law enforcement was involved in the incident, a detailed description of the events involving the law enforcement contact, including a police report number if available.

(H) Documentation that the child's authorized representative has been notified of the incident.

(9) The licensee shall ensure that the nonminor dependent's authorized representative was notified of the nonminor dependent's prolonged absence or failure to return to the facility lasting more than 72 hours and threatens the nonminor dependent's physical or emotional health or safety.

(10) The licensee shall not interfere with the Department's investigation of an incident and shall not conduct its own investigation or speak to a witness about an incident beyond what is necessary to meet reporting requirements or any duties imposed pursuant to any provision of federal or state law or regulation.

(j) The licensee shall submit reports to the Department, using form LIC 624-LE or a report containing all the information required in LIC 624-LE, regarding any incident that involves law enforcement contact with a child in the facility.

(1) The licensee shall make an initial report to the Department no later than the next business day following each incident. The initial report shall include all information described in Section 87061(j)(2)(A) through (E) that is known to the licensee at the time the report is made.

(2) Within six months of the incident, the licensee shall provide a follow-up report for each incident that includes the following information:

(A) The type of incident.

(B) Whether the incident involved an alleged violation of any crime, other than an age-based curfew law, by a child residing in the facility.

(C) Whether staff, children, or both were involved in the incident.

(D) The gender, race, ethnicity, and age of children involved in the incident.

(E) The outcome of the incident, if known, including arrests, removals of children from placement, termination or suspension of staff, the filing of a Welfare and Institutions Code Section 602 petition for the child, or revocation of or changes to the terms of probation.

(3) The licensee may file the follow-up report at any time within six months of the incident, including with the initial report, if all outcomes and required information are known.

(4) The licensee may be required to provide follow-up reports beyond the first six months if the Department determines that the information provided in either the initial or follow-up reports is incomplete, or if outcomes required to be reported are not known until later than six months after the initial report.

(5) A licensee reporting an incident under this subsection, except for incidents involving the use of manual restraint, shall not be required to report the same incident under any other provision of this Section, or under California Code of Regulations, Title 22, Section 80061, so long as all information required to be reported by the other provision is provided.

(A) Incidents involving law enforcement contact that also include the use of manual restraint shall be reported under this subsection in addition to the manual restraint incident report submitted through the Department's online portal, as specified in Section 87095.61(a).

(6) For the purposes of this subsection, "contact with law enforcement" means contact with police officers, sheriffs and others as defined in Section 87001(l)(1), with a child residing in the facility, which does not include routine contact with a probation officer who is supervising the placement of a child in the facility.

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Example: Routine contacts with probation officers do not need to be reported to the Department. However, action taken by a probation officer in response to a reportable incident involving a child in the facility in which law enforcement was called, including, but not limited to, revocation or changes of the terms of probation, should be reported as an outcome as required in Section 87061(j)(2)(E) if known.

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(k) The licensee shall report the use of a video camera in a child's bedroom to the licensing agency no later than the next business day after the video camera is installed. The notification to the Department must include a copy of the physician's documentation described in Section 87075(h).

~~(k) (1) For an out-of-state residential facility, as defined by section 87001(m) and certified by the Department as set forth in Family Code section 7911.1, incident reports required by this section and by California Code of Regulations, Title 22, Section 80061, are required for all children in care regardless of whether the child is a California placement.~~

~~(2) In addition to these requirements, an out-of-state residential facility shall also report to the Department the following within seven calendar days:~~

~~(A) Any complaint investigation by their licensing authority or equivalent, if known.~~

~~(B) Any other oversight agency investigation, if known.~~

~~(C) Any action taken by a state or placing agency regarding restriction on placement in the facility, if known, regardless of whether the children affected by the action are California placements.~~

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~~Family Code section 7911.1 in part provides:~~

~~(a) Notwithstanding any other law, the State Department of Social Services or its designee shall investigate any threat to the health and safety of children placed by a California county child welfare agency or probation department in an out-of-state residential facility, as defined in subdivision (b) of Section 7910, pursuant to the provisions of the Interstate Compact on the Placement of Children. This authority shall include the authority to interview children or staff in private or review their file at the out-of-state residential facility or wherever the child or files may be at the time of the investigation.~~

Notwithstanding any other law, the State Department of Social Services or its designee

shall require certified out-of-state residential facilities to comply with the reporting requirements applicable to short-term residential therapeutic programs licensed in California for each child in care, regardless of whether or not the child is a California placement, by submitting a copy of the required reports to the Compact Administrator within regulatory timeframes. The Compact Administrator, within one business day of receiving a serious incident report from a certified out-of-state residential facility, shall verbally notify any county child welfare agency or probation department with a child placed at the certified out-of-state residential facility of the serious incident report. The Compact Administrator, within five business days of receiving a written serious incident report from a certified out-of-state residential facility, shall forward a copy of the written serious incident report to any county child welfare agency or probation department with a child placed at the certified out-of-state residential facility.

(b) Any contract, memorandum of understanding, or agreement entered into pursuant to paragraph (b) of Article 5 of the Interstate Compact on the Placement of Children regarding the placement of a child out of state by a California county social services agency or probation department shall include the language set forth in subdivision (a).

"(c) Upon receipt of a request from a county child welfare agency or probation department for a child-specific certification of a placement in an out-of-state residential facility, the State Department of Social Services or its designee shall expedite the review of the request in order to determine any additional information needed, shall communicate with the requesting county agency regarding its review including regular status updates, and shall, in a timely manner, determine whether it will issue a child-specific certification to the out-of-state residential facility pursuant to this section.

(1) The licensing standards applicable to an out-of-state residential facility certified by the department shall be those required of short-term residential therapeutic programs operated in this state.

(2) Before issuing a child-specific certification to the out-of-state residential facility, the department shall do all of the following:

(A) Review documentation provided by the county placing agency pursuant to subdivision (e) of Section 16010.9 of the Welfare and Institutions Code.

(B) Perform an on-site inspection of the out-of-state residential facility's physical site.

(C) At a minimum, review all of the following sections of the out-of-state residential facility's program statement:

~~(i) Core Services and Supports.~~

~~(ii) Trauma-Informed Interventions and Treatment Practices.~~

~~(iii) Personal Rights.~~

~~(iv) House Rules.~~

~~(v) Discipline Policies and Procedures.~~

~~(vi) Emergency Intervention Plan (Including Runaway Plan).~~

~~(D) Review the out-of-state residential facility's serious incident reports.~~

~~(E) Review the out-of-state residential facility's current license. In order for the out-of-state residential facility to receive a certification, the out-of-state residential facility shall have a current license, or an equivalent approval, in good standing issued by the appropriate authority or authorities of the state in which it is operating.~~

~~(F) Review the out-of-state residential facility's licensing history, including any substantiated complaints.~~

~~(G) Review the documentation provided by the State Department of Health Care Services pursuant to subdivision (d).~~
~~(H) Obtain approval from the director of the department of the child-specific certification for the out-of-state residential facility. Director approval may be given after all of the requirements of~~

~~subparagraphs (A) to (G), inclusive, have been satisfied.~~

~~(3) The department shall not issue a child-specific certification to the out-of-state residential facility if the out-of-state residential facility fails to cooperate during the certification process, including failing to provide any of the documentation listed in paragraph (2).~~

~~(4) If all the requirements of paragraph (2) have been satisfied, the department shall certify the out-of-state residential facility pursuant to this section. The department shall provide written documentation of this certification to the county placing agency.~~

~~(5) The child-specific certification is discontinued, effective immediately, upon the child transitioning out of the out-of-state residential facility's program.~~

~~…(e) Failure by an out-of-state residential facility to make children or staff available as required~~

by subdivision (a) for a private interview or make files available for review shall be grounds to deny or discontinue the certification.

(f) Certifications made pursuant to this section shall be reviewed as often as necessary to ensure the health and safety of children in care. At a minimum, certifications made pursuant to this section shall be reviewed semiannually. The department shall complete a full review of the facility's program statement semiannually.

(g) (1) The department may deny or discontinue the certification of the out-of-state residential facility if the department makes a finding that the out-of-state residential facility is not operating in compliance with the requirements of this section. The department shall engage with counties that have one or more youth at a facility proposed for decertification to allow for a transition to occur, to the extent possible while ensuring the youths' safety and well-being.
(2) If the out-of-state residential facility disagrees with any decision by the department to deny or discontinue the certification, the out-of-state residential facility may appeal the decision immediately upon receipt of the notice of decertification. If the out-of-state residential facility decides to appeal the decision, the appeal shall be submitted to the department not later than 30

calendar days after the out-of-state residential facility receives the decision. The out-of-state residential facility's appeal shall be in writing and include all information, including supporting documents, that forms the basis of the appeal. The department shall issue a final determination not later than 30 calendar days after receipt of the appeal. If the out-of-state residential facility disagrees with the department's determination, the out-of-state residential facility may file a writ pursuant to paragraph (3). If the out-of-state residential facility decides to file a writ, the writ shall be filed not later than 30 calendar days after the out-of-state residential facility receives the final determination.

(h) The certification requirements of this section shall not impact any of the following:

(1) Placement of emotionally disturbed children made pursuant to an individualized education program developed pursuant to the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) if the placement is not funded with federal or state foster care funds.

(2) Placement of Indian children, as defined by the Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et. seq.) and Section 224.1 of the Welfare and Institutions Code.
(i) Failure by an out-of-state residential facility to obtain or maintain its certification, as required by this section, shall preclude the use of any public funds, whether county, state, or federal, in the payment for the placement of any child in that out-of-state residential facility pursuant to the

~~Interstate Compact on the Placement of Children."~~

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(l) The licensee shall notify the Department, in writing, within 24 hours of receiving notification that the Mental Health Program Approval, as described in section 1562.01 of the Health and Safety Code, is suspended, revoked, put on probation, not renewed, expired, terminated or otherwise lapses.

NOTE: Authority cited: Sections 1522.41(j), 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017,
Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Section 7911.1, Family Code; Sections 1180.55, 1522.41(b)(4), 1531, 1538.7, 1562, and 1562.01 Health and Safety Code; Sections 4096.5, and 11462.01, Welfare and Institutions Code.

87063 ACCOUNTABILITY.

(a) The board of directors or governing body including, but not limited to, an individual natural person who is a licensee, shall be active in ensuring oversight and accountability, and shall perform, at a minimum, the following duties:

(1) Establish and approve policies and procedures governing the operation of the short-term residential therapeutic program;

(A) The policies and procedures shall be kept and maintained in updated policy and procedure manuals, and the licensee shall allow the department to review the manuals upon request. The manuals shall address, at minimum, the following:

1. Conflict of interest, self-dealing, segregation of duties and less-than-arms-length transactions;
2. Internal controls, including, but not limited to, financial accounting, reconciliations, financial security measures, disbursements, petty cash and financial record keeping.
3. This paragraph shall not apply to a county licensed to operate a short-term residential therapeutic program.

(2) Approve and monitor the short-term residential therapeutic program's operating budget;

(3) Assess and maintain the level of funds necessary to cover the costs of operating the short-term residential therapeutic program;

(4) Review and approve the facility's emergency intervention plan as specified in Section 87095.22(k);

(5) Employ an administrator who meets the requirements of Section 87064;

(6) Complete a written statement describing the duties delegated to the administrator. Provide a copy of this statement to the administrator and maintain a copy in the facility's file;

(7) Require that the Chief Executive Officer, administrator, or a designee be present at all meetings of the board of directors or governing body during which the operation or the policies of the short-term residential therapeutic program are discussed;

(8) Conduct meetings of the board of directors or governing body at least on a quarterly basis to review and discuss the short-term residential therapeutic program's operation and documents as specified in Health and Safety Code Section 1520.1(f), and based upon the review, ensure that the short-term residential therapeutic program complies with all applicable regulations;

(A) Review and discussion of the short-term residential therapeutic program's operation shall include the incidents concerning a child in the facility involving contact with law enforcement that were reported to the Department as specified in Section 87061(~~k~~j).

(9) Ensure that minutes are kept for all board of directors or governing body meetings and retained as a permanent record. The minutes shall reflect the board's or governing body's discussion of the documents specified in Health and Safety Code Section 1520.1(f);

(10) Ensure that all minutes of board of directors or governing body meetings are kept electronically or on paper and made available to the licensing agency to inspect, audit, and copy upon demand during normal business hours. Minutes may be removed if necessary for copying. Removal of minutes shall be subject to the following requirements:

(A) Prior to removing any minutes, a licensing representative shall prepare a list of the minutes to be removed, sign and date the list upon removal of the minutes, and leave a copy of the list with the administrator or designee.

(B) Licensing representatives shall return the minutes undamaged and in good order within three business days following the date the minutes were removed.

(11) Ensure that oversight of program operations and internal controls are adequate and effective for the management of the short-term residential therapeutic program and provide reasonable assurance of compliance with applicable laws and regulations.

(12) If the short-term residential therapeutic program is a corporate licensee, submit copies of all corporate documents to the licensing agency at the time documents are submitted to the Secretary of State.

(b) The licensee shall provide each member of the board of directors or governing body with the "Facts You Need To Know, Group Home and Short-Term Residential Therapeutic Program Board of Directors" (PUB 326) booklet furnished by the Department.

(c) The licensee shall require that each board of directors or governing body member sign and date the form, LIC 9165 as specified in Section 87018(d). The signed original form shall be maintained in the short-term residential therapeutic program's principal California office.

(1) The signed form shall be obtained from each board of directors or governing body member by the next scheduled board of directors or governing body meeting.

(2) A signed form shall be obtained from a prospective board of director or governing body member before joining the board of directors or governing body.

(3) A permanent license shall not be issued until all members of the board of directors or governing body have signed the form.

(4) The LIC 9165 specified in (c) above shall be made available for review by the Department upon request.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1520.1, 1520.11(c), 1550, and 1562.01, Health and Safety Code.

87064 ADMINISTRATOR QUALIFICATIONS AND DUTIES.

(a) In addition to California Code of Regulations, Title 22, Section 80064, the following shall apply.

(b) All short-term residential therapeutic programs shall have a qualified and currently certified administrator.

(1) The administrator shall be on the premises for a minimum of 20 hours per week to manage and administer the short-term residential therapeutic program in compliance with applicable laws and regulations.

(A) The department may issue a waiver or an exception, as specified in California Code of Regulations, Title 22, Section 80024.

(B) The department may require an administrator to be on the premises more than 20 hours per week.

(2) In the event a certified administrator is not employed within ten (10) days of the departure of the former administrator, a written "Plan of Correction" shall be developed to bring the short-term residential therapeutic program into compliance with the requirements of this section.

(3) The Department may revoke the license of a short-term residential therapeutic program for failure to comply with all requirements regarding certified administrators.

(4) Unless otherwise provided, a certified administrator may administer more than one licensed children's residential facility upon approval by the Department.

(5) A certified administrator may also be a facility's mental health head of service.

(A) In such cases the individual shall comply with all the requirements for a certified administrator and a service.

(B) A certified administrator who is also a facility's mental health head of service may not serve as a mental health head of service or an administrator of more than one short-term residential therapeutic program.

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(c) The administrator shall meet one of the following qualifications:

(1) Have a master's degree in a behavioral science from an accredited college or university, plus two years of employment as a social worker, as defined in California Code of Regulations, Title 22, Section 80001 (s)(~~4~~6), in an agency serving children or in a residential congregate care program for children.

(2) Have a bachelor's degree from an accredited college or university, plus at least three years' administrative experience or supervisory experience over social work, direct care and/or support staff providing direct services to children in an agency or in a community care facility with a licensed capacity of six or more.

(3) Have completed at least two years at an accredited college or university, plus at least five years' administrative experience or supervisory experience over social work, direct care and/or support staff providing direct services to children in an agency or in a community care facility with a licensed capacity of six or more.

(4) Be a qualified and certified group home administrator prior to January 1, 2017.

(d) The administrator shall be responsible for the following duties:

(1) Directing and evaluating the facility within the limits of the functions and policies established by the licensee.

(2) Preparing the facility's budget and managing expenditures according to the facility's budget limitations.

(3) Organizing the work of the facility and delegating responsibilities to staff.

(4) Assessing the facility's operations and program and reporting to the licensee and making recommendations to address identified problems.

(5) Recruiting, appointing, evaluating, and terminating staff.

(6) Developing a plan for the orientation, development, and training of staff, as specified in Section 87065.1.

(7) Reviewing complaints made by children or their authorized representative(s) as specified in Section 87072.2 and deciding upon the action to be taken to handle the complaint.

(8) Developing the written policies, procedures, and practices for continuous quality improvement, as specified in Section 87081.

(9) Observing and interacting with staff, children, and other individuals, as necessary, to ensure the quality of care for children and program services.

(10) Any other duties that may be necessary to manage and administer the short-term residential therapeutic program.

(e) When the administrator is absent, the facility manager shall be the designated substitute.

NOTE: Authority cited: Sections 1522.41(j), 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 153, Stats.
2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1522.41(b), 1531 and 1562, Health and Safety Code. Code.

87064.1 ADDITIONAL ADMINISTRATOR QUALIFICATIONS AND DUTIES IN SPECIALIZED SHORT-TERM RESIDENTIAL THERAPEUTIC PROGRAMS.

(a) The administrator shall ensure the provision of services to children with special health care needs with appropriate regard for the child's physical and mental well-being and needs, including those services identified in the child's individualized health care plan.

NOTE: Authority Cited: Section 17730, Welfare and Institutions Code; and Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1531, 1562, and 1562.01, Health and Safety Code.

87064.2 ADMINISTRATOR CERTIFICATION REQUIREMENTS.

(a) An individual employed on or after January 1, 2017 shall be a short-term residential therapeutic program certificate holder prior to being employed as an administrator of a short-term residential therapeutic program.

(1) A group home administrator possessing a valid group home certificate issued by the Department, is exempt from completing the forty (40) hours of Initial Certification Training Program classroom instruction and passing the written exam, as described in sections 87064.2(b)(1) and (2) below, provided the individual has completed 12 hours of Department-approved courses provided by a Department- approved vendor in the following:

(A) Three (3) hours of instruction in laws, regulations, and policies and procedural standards that impact the operations of the type of facility for which the applicant will be an administrator.

(B) Three (3) hours of instruction in authorization, uses, benefits, side effects, interactions, assistance with self-administration, misuse, documentation, and storage of medications, and metabolic monitoring of children prescribed psychotropic medications.

(C) Two (2) hours of instruction on resident admission, retention, and assessment procedures, including the right of a foster child to have fair and equal access to all available services, placement, care, treatment and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, medical condition, genetic information, marital status, ~~or~~ HIV status, citizenship, immigration status or primary language.

(D) One (1) hour of instruction on the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), its historical significance, the rights of Indian children, covered by the act, and the best interests of Indian children as

including culturally appropriate, child-centered practices that respect Native American history, culture, retention of Tribal membership, and connection to the Tribal community and traditions.

(E) One (1) hour of instruction in cultural competency and sensitivity and related best practices for providing adequate care for children across diverse ethnic and racial backgrounds, as well as children identifying as lesbian, gay, bisexual, or transgender.

(F) Two (2) hours of instruction in the physical and psychosocial needs of the children, including behavior management, de-escalation techniques, and trauma-informed crisis management planning, including the use of emergency interventions.

(b) To receive their certificate an applicant shall:

(1) Successfully complete a Department approved Initial Certification Training Program as described in Section 87090(h), except as specified in Section 87064.2(a)(1) above.

(2) Pass a written exam developed and administered by the Department within sixty (60) days of completion of an Initial Certification Training Program and within three (3) attempts, except as specified in Section 87064.2(a)(1) above.

(3) Submit a completed Application for Administrator Certification form LIC 9214 to the Department's Administrator Certification Section within thirty (30) days of being notified of having passed the exam. The application shall contain the following:

(A) The applicant's name, address, e-mail address, phone number(s), and date of birth.

(B) A statement of whether or not the applicant:

1. Held or currently holds a license, certification or other approval as a professional in a specified field and the certificate or license number(s).

2. Held or currently holds a State-issued facility license or was or is employed by a State-licensed care facility and the license number.
3. Was the subject of any legal, administrative or other action involving licensure, certification or other approvals as specified in (1.) and (2.) above.

(C) Proof that the applicant has successfully completed a Department approved Initial Certification Training Program or proof of being a group home administrator possessing a valid group home certificate.

(D) Documentation of passing the written exam.

(E) A statement certifying that the information submitted is true and correct.

(F) A completed Request for Live Scan Service form LIC 9163, signed and dated by the live scan vendor, to document that the applicant has submitted fingerprints to the Department of Justice at a Live Scan location, or a statement that the applicant has a current criminal record clearance on file with the Department.

(G) A non-refundable one hundred dollar ($100) processing fee.

(c) The Department shall not issue a certificate until it receives notification from the Department of Justice that the applicant has a criminal record clearance or an exemption pursuant to Health and Safety Code section 1522 or is able to transfer a current criminal record clearance or an exemption pursuant to Health and Safety Code section 1522(b)(1).

(d) No person shall cheat on, subvert, or attempt to subvert, the exam given by the Department, including, but not limited to, engaging in, soliciting, or procuring any of the following:

(1) Any form of communication between one or more examinees and any other person, other than a proctor or exam official, while the exam is in progress.

(2) The taking of all or a part of the exam by a person other than the applicant.

(3) Possession or use at any time during the exam or while the examinee is on the exam premises of any device, material, or document that is not expressly authorized for

use by examinees during the exam, including, but not limited to, notes, crib sheets, textbooks, and electronic devices.

(4) Failure to follow any exam instruction or rule related to exam security.

(e) Any applicant caught willfully cheating under this section shall be deemed to have failed that exam and may be denied certification pursuant to Section 87064.4 as a result of the conduct.

(f) It shall be unlawful for any person not certified under this section to misrepresent themselves as a certified administrator. Any person willfully making any false representation as being a certified short-term residential therapeutic program administrator is guilty of a misdemeanor.

(g) Certificates issued under this section shall be renewed every two (2) years provided the certificate holder has complied with all renewal requirements.

(h) Certificates shall be valid for a period of two (2) years and expire on either the anniversary date of initial issuance or on the individual's birthday during the second calendar year following certification.

(i) Time deadlines specified in Sections 87064.2 (b)(2) and (3) above may be extended up to sixty (60) days in total for good cause as determined by the Department. Any request for extension of time shall be made in writing to the Administrator Certification Section Manager within sixty (60) days of completing the Initial Certification Training Program and shall contain a statement of all facts the applicant believes constitute good cause to extend time.

(1) Good cause may include death of an immediate family member, required fulfillment of military service or other civic duty, or another unavoidable and verifiable event as determined by the Department. Failure of the exam shall not constitute good cause for an extension.

(2) Absent a good cause extension, the Department shall not process and may deem withdrawn an application that fails to meet the time deadlines specified in Sections 87064.2(b)(2) or (3).

(3) Any applicant who fails to meet the time deadlines specified in Sections 87064.2(b)(2) and (3) must begin the certification process described in Section 87064.2(b) anew, and complete it within the time deadlines specified in Sections 87064.2(b)(2) and (3).

NOTE: Authority cited: Sections 1522.41(j), 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1520, 1522, 1522.41, 1550, and 1562.01, Health and Safety Code.

87064.3 ADMINISTRATOR RECERTIFICATION REQUIREMENTS.

(a) Administrators shall complete at least forty (40) classroom hours of continuing education during each two-year certification period, including:

(1) At least four (4) hours of instruction in laws, regulations, policies, and procedural standards that impact short-term residential therapeutic programs, including but not limited to the regulations contained in this subchapter.

(b) Continuing education hours must be sufficiently related by subject matter and logic to the Core of Knowledge, current and relevant to facility operations and care, and completed through any combination of the following:

(1) Courses approved for short-term residential therapeutic program administrators by the Department.

(2) Certified administrators required to complete continuing education hours required by regulations of the Department of Developmental Services, and approved by the Regional Center, may have up to twenty-four (24) of the required continuing education course hours credited toward the forty (40) hour continuing education requirement.

(A) Community college course hours approved by the Regional Center shall be accepted by the Department for recertification.

(B) Any continuing education course hours in excess of twenty-four (24) hours offered by the Department of Developmental Services and approved by the Regional Center may be credited toward the forty (40) hour requirement provided the courses are not duplicative and relate to the core of knowledge as specified in Section 87090(h)(1).

(c) Courses approved for continuing education credit shall require the physical presence of the certificate holder in a classroom setting as defined in Section 87001(c)(57) except that up to one-half of the required forty (40) hours of continuing education necessary to renew the

certification may be satisfied through interactive online courses as specified in Section 87091(i).

(1) The Department will not count toward the continuing education requirements more than ten (10) hours of instruction, in-class and/or online, completed in a single day.

(2) Home study or correspondence-type courses will not be counted toward completion of continuing education requirements as they are not interactive by design.

(3) Completion of an Initial Certification Training Program or component(s) thereof will not be counted toward completion of continuing education requirements as the Program is intended for new administrators.

(4) Any specific continuing education course may only be accepted once per renewal period toward completion of the continuing education requirements.

(d) To apply for recertification prior to the expiration date of the certificate, the certificate holder shall submit to the Department's Administrator Certification Section, post-marked on, or up to ninety (90) days before, the certificate expiration date:

(1) A completed application for Administrator Certification form LIC 9214.

(2) Evidence of completion of forty (40) continuing education hours as specified in Section 87064.3(a) above.

(3) Payment of a non-refundable one hundred dollar ($100) processing fee.

(e) To apply for recertification after the expiration date of the certificate, but within four (4) years of the certificate expiration date, the certificate holder shall submit to the Department's Administrator Certification Section:

(1) A completed application for Administrator Certification form LIC 9214.

(2) Evidence of completion of the required continuing education hours as specified in Section 87064.3(a) above. The total number of hours required for recertification shall be determined by computing the number of continuing education hours the certificate holder would have been required to complete if they had remained certified. The date of computation shall be the date the application for renewal is received by the Department's Administrator Certification Section.

(3) Payment of a non-refundable delinquency fee equal to three times the one hundred dollar ($100) renewal fee, or three hundred dollars ($300).

(f) Certificates not renewed within four (4) years of their expiration date shall not be renewed, restored, reissued or reinstated.

(1) Holders of certificates not renewed within four (4) years of their expiration date must begin anew the certification process specified in Section 87064.2(b).

(g) Certificate holders, as a condition of recertification, shall have a current criminal record clearance or exemption.

(h) A non-refundable processing fee of twenty-five dollars ($25) shall be paid for the replacement of a lost certificate.

(i) A certificate holder shall report any change of mailing address within thirty (30) days to the Department's Administrator Certification Section.

(j) Whenever a certified administrator assumes or relinquishes responsibility for administering a short-term residential therapeutic program, or assumes or relinquishes responsibility as the mental health head of service, they shall provide written notice within ten (10) days to:

(1) The local licensing office(s) responsible for receiving information regarding personnel changes at the licensed facilities with whom the certificate holder is or was associated, and

(2) The Department's Administrator Certification Section.

NOTE: Authority cited: Sections 1522.41(j), 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 153, Stats.
2021, Ch. 86, Sec. 57. Reference: Sections 1522 and 1522.41(a), 1522.41(f), 1522.41(h), and 1562.01, Health and Safety Code.

87064.4 ADMINISTRATOR CERTIFICATION DENIAL OR REVOCATION.

(a) The Department may deny or revoke any administrator certificate upon any of the grounds specified in Health and Safety Code section 1550 and/or on any of the following grounds:

(1) The certificate holder or applicant procured or attempted to procure a certificate by fraud, misrepresentation, bribery, or other unlawful behavior.

(2) The certificate holder or applicant knowingly made or gave a false statement or information in conjunction with the application for a certificate.

(3) The Department has issued an exclusion order against the certificate holder pursuant to Health and Safety Code sections 1558, 1568.092, 1569.58 or 1596.8897 after the Department issued the certificate, and:

(A) The certificate holder did not appeal the exclusion order or,

(B) After the appeal, the Department issued a decision and order that upheld the exclusion order.

(4) The certificate holder or applicant does not have a current criminal record clearance or exemption.

(5) The certificate holder fails to comply with certificate renewal requirements.

(A) The Department may reinstate a certificate that has been revoked for failure to comply with certificate renewal requirements provided all conditions for recertification have been satisfied, including payment of all appropriate renewal and delinquency fees.

(b) Any denial or revocation of an administrator certificate may be appealed as provided by Health and Safety Code section 1551.

(c) Unless otherwise ordered by the Department, any application for an administrator certificate submitted after a denial or revocation action shall be processed in accordance with the provisions of Health and Safety Code section 1520.3.

NOTE: Authority cited: Sections 1522.41(j), 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 153, Stats.
2021, Ch. 86, Sec. 57. Reference: Sections 1520.3, 1522, 1522.41(f), 1522.41(g), 1550, 1551, and 1562.01, Health and Safety Code.

87064.5 ADMINISTRATOR CERTIFICATE FORFEITURE.

(a) Unless otherwise ordered by the Department, the certificate shall be considered forfeited under any of the following conditions:

(1) The Department has revoked any license held by the certificate holder after the Department issued the certificate.

(2) The Department has issued an exclusion order against the certificate holder pursuant to Health and Safety Code sections 1558, 1568.092, 1569.58 or 1596.8897, after the Department issued the certificate, and:

(A) The certificate holder did not appeal the exclusion order or,

(B) After the appeal, the Department issued a decision and order that upheld the exclusion order.

(b) Unless otherwise ordered by the Department, any application for an administrator certificate submitted after a certificate has been forfeited shall be processed in accordance with the provisions of Health and Safety Code sections 1520.3, 1558(h) and/or 1558.1.

NOTE: Authority cited: Sections 1522.41(j), 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131, AB 153, Stats. 2021,
Ch. 86, Sec. 57. Reference: Sections 1520.3, 1522, 1522.41(g), 1558(h), 1558.1, and 1562.01, Health and Safety Code.

87065 PERSONNEL REQUIREMENTS.

(a) In addition to California Code of Regulations, Title 22, Section 80065, with the exception of subsection (d), the following shall apply.

(b) The licensee shall employ those administrative, social work, licensed or certified mental health professional, direct care and support staff necessary to perform the assigned duties specified in applicable laws and regulations.

(c) The licensee shall ensure provision of the services specified in Section 87065.2(c)(1) through (4), by social work staff as defined in 87001(s)(45).

(1) Social work staff hired on or after January 1, 2017 shall meet the following education and experience requirements:

(A) A master's degree from an accredited or state approved graduate school, as defined by the Department of Education, in social work or social welfare, marriage, family and child counseling, child psychology, child development, counseling psychology or social psychology.

(B) Social work staff shall be at least 21 years of age.

(C) Completion of at least three (3) semester units or 100 days of field practice or experience in a public or private social service agency at the master's degree level.

(D) At least nine (9) semester units of coursework related to children and families, or 18 months' experience in working with children and families.

(E) At least three semester units in working with minority populations , or six months of experience in working with minority population; or six months in-service training in working with minority populations within the first year of employment as a condition of employment.

(F) At least three semester units in child welfare, or two years' experience in a public or private child welfare social services setting.

(2) Social work staff who do not meet the master's degree requirements specified in Subsection (c)(1)(A) may apply for an exception provided they complete the coursework and field practice or experience requirements specified in Subsection (c)(1)(C).

(3) Group home social work staff who were hired prior to January 1, 2017 by a facility transitioning to a short-term residential therapeutic program shall not be required to meet the requirements of this section in order to remain employed in a short-term residential therapeutic program.

(4) Documentation of the required education and experience requirements shall be maintained in the personnel file.

(d) The licensee shall designate at least one staff member to be onsite at all times to apply the reasonable and prudent parent standard to decisions involving the participation of a child in age or developmentally appropriate activities in accordance with Health and Safety Code section 1522.44(b) and Section 87067.

(1) The licensee shall ensure that the designated staff member(s) shall meet the training requirements specified in 87065.1(e) and receives training related to the reasonable prudent parent standard as specified in Health and Safety Code 1522.44(c).

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Health and Safety Code section 1522.44 provides in part:

(b) Except for licensed foster family homes, certified family homes, and resource families approved by a foster family agency, each licensed community care facility that provides care and supervision to children and operates with staff shall designate at least one onsite staff member to apply the reasonable and prudent parent standard to decisions involving the participation of a child who is placed in the facility in age or developmentally appropriate activities in accordance with the requirements of Section 362.05 of the Welfare and Institutions Code, Section 671(a)(10) of Title 42 of the United States Code, and the regulations adopted by the department pursuant to this chapter.

(c) A licensed and certified foster parent, resource family, or facility staff member, as

described in subdivision (b), shall receive training related to the reasonable and prudent parent standard that is consistent with Section 671(a)(24) of Title 42 of the United States Code. This training shall include knowledge and skills relating to the reasonable and

prudent parent standard for the participation of the child in age or developmentally appropriate activities, including knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child, and knowledge and skills relating to applying the standard to decisions such as whether to allow the child to engage in extracurricular, enrichment, cultural, and social activities, including sports, field trips, and overnight activities lasting one or more days, and to decisions involving the signing of permission slips and arranging of transportation for the child to and from extracurricular, enrichment, and social activities.

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(e) One employee shall be designated by the administrator to have primary responsibility for planned activities at the facility and participation in community-based activities, and shall be given assistance as necessary to ensure that all children participate in accordance with their needs, interests, and abilities.

(1) The designated employee shall develop, organize, implement, and evaluate the facility activity program, and shall possess the following qualifications:

(A) Completion of or enrollment in a related education or training program.

(B) Six months' experience in organizing and providing planned activities.

(f) The licensee shall designate at least one facility manager to be present at the facility at all times when one or more children are present:

(1) The facility manager shall meet one of the following requirements prior to employment:

(A) Have a bachelor of arts or sciences degree.

(B) Two years of full-time experience, or its equivalent, working with the population to be served, or equivalent education or experience, as determined by CDSS.

1. Experience shall be verified as having been performed as a paid or volunteer staff person whose duties required direct supervision and care of the population served.

(C) Two years' experience as a member of the social work staff in a group home or short-term residential therapeutic program performing those duties specified in Section 87065.2(c).

(2) Prior to assuming the duties and responsibilities of the facility manager, the individual shall complete a minimum of one hour of training as specified in Section 87065.1(b) in addition to training required in Sections 87065.1(c) and (d).

(3) Any person willfully making any false representation as being a facility manager is guilty of a misdemeanor.

(4) A facility manager shall be at least 21 years of age.

(5) A group home facility manager who was hired as a facility manager prior to January 1, 2017 by a facility transitioning to a short-term residential therapeutic program shall not be required to meet the requirements of this section in order to remain employed in a short-term residential therapeutic program.

(6) Documentation of the required education and experience requirements shall be maintained in the personnel file.

(g) The licensee shall employ the number of direct care staff necessary to comply with the staff to child ratios specified in 87065.5, meet the needs of children as specified in 87065.2, and provide adequate care and supervision to children.

(1) Prior to employment, direct care staff shall meet at least one of the qualifications specified in subdivision (A) and have relevant knowledge, skills, and abilities as specified in subdivision (B).

(A) Direct care staff shall meet one of the following qualifications:

1. Have obtained a bachelor of arts or sciences degree.

2. Have obtained a valid Child Development Teaching Permit.

3. Have completed 12 semester units of Early Childhood Education, Adolescent Development, Foster and Kinship Care Education, or Psychology and have completed at least 100 hours of on-the-job experience working with children.
    i. The 100 hours of on-the-job experience may be completed after starting employment at the facility. Pending completion of the 100 hours, staff shall not be counted in the staff to child ratio and shall not be left unsupervised with children.
4. Have a valid certificate as an Alcohol Counselor, Drug Counselor or Alcohol and Drug Counselor, and have completed at least 100 hours of on-the-job experience working with children.
    i. The 100 hours of on-the-job experience may be completed after starting employment at the facility. Pending completion of the 100 hours, staff shall not be counted in the staff to child ratio and shall not be left unsupervised with children.
5. Have a valid vocational training certificate, credential, or documentation demonstrating that the individual is a trade journeyperson who instructs children in vocational skills and have at least 100 hours of experience working with children or adults as a mentor, athletic coach, teacher, vocational coach, tutor, counselor, caregiver within a residential setting, or other relevant experience as determined by the department.
6. Previously been employed as a full-time staff or served as a volunteer at a group home, short-term residential therapeutic program, or substance abuse treatment program for at least one year.
7. Have relevant life experience in the child welfare, mental health or

juvenile justice systems as a consumer, mentor, or caregiver, or life experience with children who have experienced high levels of trauma, or other relevant experience as determined by the department.

(B) At a minimum, a direct care staff shall demonstrate all of the following knowledge, skills, and abilities:

1. Knowledge and understanding of the needs of children served in a children's residential setting.
2. Skills and ability to engage and develop a rapport with children who have diverse backgrounds.
3. Skills and ability to provide consistency and behavioral limits through relationship-based interventions.
4. Skills to communicate effectively with the ability to solve problems in a collaborative manner.

(2) Direct care staff shall be at least 21 years of age.

(A) This subparagraph shall not apply to direct care staff employed before October 1, 2014 by a short-term residential therapeutic program that was operating as a group home license prior to January 1, 2017.

(3) Direct care staff shall meet the training requirements specified in 87065.1(c) and (d).

(4) A group home child care staff who was hired as a child care staff prior to January 1, 2017 by a facility transitioning to a short-term residential therapeutic program shall not be required to meet the requirements of this section in order to remain employed in a short-term residential therapeutic program as a direct care staff.

(5) Documentation of the required education and experience requirements shall be maintained in the personnel file.

(h) A short-term residential therapeutic program may utilize peer partners who shall be at least 18 years of age.

(1) Peer partners shall not be primarily responsible for the direct supervision of children.

(2) Peer partners shall not be counted in the staff to child ratios specified in 87065.5.

(3) Peer partners shall meet the training requirements specified in 87065.1(f).

(4) Peer partners shall complete a criminal record review and a Child Abuse Center Index check in accordance with applicable law.

(i) A short-term residential therapeutic program may utilize volunteers who shall be at least 18 years of age.

(1) Volunteers shall not be primarily responsible for the direct supervision of children.

(2) Volunteers shall not be counted in the staff to child ratios specified in 87065.5.

(3) Volunteers shall meet the training requirements specified in 87065.1(g).

(4) Volunteers shall complete a criminal record review and a Child Abuse Center Index check in accordance with applicable law.

(j) All employees shall be given a copy of the job description specified in Section 87066(b)(1) which is relevant to their duties, and shall have access to all other job descriptions.

(k) The staff assignment information specified in Section 87066(b)(2) shall be provided to all applicants during interviews for employment; to all staff during orientation or when changes are made which affect job assignments; and upon request to placement agencies.

(l) Upon employment, the short-term residential therapeutic program shall make available for review by all short-term residential therapeutic program personnel, an employee training handbook.

(1) The employee training handbook shall be maintained at the facility and updated as needed and contain the following:

(A) Facility's program mission, visions and values;

(B) Facility's policies and procedures;

(C) Emergency and disaster response procedures;

(D) Law enforcement contact procedures, lines of authority and communication;

(E) Title 22 regulations; and

(F) Cal. Dept. of Social Services, STRTP ILS and reporting requirements.

(m) Upon employment, staff shall receive copies of the removal and/or transfer policies and procedures specified in Section 87068.4(a); of the discipline policies and procedures for children specified in Section 87072.1(a), the expectations and consequences for nonminor dependents as specified in Section 87072.11(4b), and of the complaint procedures specified in Section 87072.2(a).

(n) Physician reports from general practitioners or specialists may be required after licensure if the licensing agency has reason to believe that a licensee's or staff member's physical and/or mental health is not adequate to carry out responsibilities under these regulations.

(1) The licensing agency shall provide the licensee with a written explanation of the need for any additional report.

NOTE: Authority cited: Sections 1522.44, 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017,
Ch. 732, Sec. 126; 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Section 51, Civil Code; Sections 1501, 1522.4, 1531, 1562 and 1562.01, Health and Safety Code; and 16001.9, Welfare and Institutions Code.

87065.05 ADDITIONAL PERSONNEL REQUIREMENTS FOR SPECIALIZED SHORT-TERM RESIDENTIAL THERAPEUTIC PROGRAMS.

(a) No person shall provide specialized in-home health care to a child placed in the home unless:

(1) They are a licensed health care professional; and

(2) The child's individualized health care plan team determines that the person has the necessary medical qualifications and expertise to meet the child's in-home health care needs.

(A) The child's individualized health care plan team shall make a new determination each time the child's in-home health care needs change.

(b) Volunteers caring for children in a specialized short-term residential therapeutic program shall meet the health screening requirements in Sections 80065(g)(1) and (g)(2).

NOTE: Authority cited: Section 17730, Welfare and Institutions Code; and Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 17731(c) and 17736(a) and (b), Welfare and Institutions Code; and Sections 1501, 1531, 1562, and 1562.01, Health and Safety Code.

87065.1 SUPERVISION, EVALUATION AND TRAINING REQUIREMENTS.

(a) (1) The licensee shall develop, maintain and implement a written plan for the supervision, evaluation, and training of staff that meets the requirements of this section. In addition, the plan shall do all of the following:

(A) Be designed to ensure the provision of trauma-informed services.

(B) Be appropriate to meet the needs of staff and population(s) served.

(C) Provide staff with the knowledge, skills, and support to ensure the health and safety of children in care and meet the individualized needs of children and families served.

(D) Include in-service education of staff.

(E) Include organizational strategies to enhance the well-being, retention, and resilience of staff.

(F) Describe the utilization, screening, and training of peer partners, volunteers.

(G) Be designed to ensure:

1. Cultural competency and sensitivity; including but not limited to best practices for providing adequate care, services, and supports for children across diverse ethnic and racial backgrounds, as well as children identifying as lesbian, gay, bisexual, transgender, or nonbinary;

2. Methods to behaviorally support children are appropriate for children impacted by trauma or child abuse and neglect; and

3. Best practices for addressing the permanence, well-being, and educational needs of children, including children with disabilities.

(H) Include information about how to engage members of the child's family and community, including parents, siblings, caregivers, other relatives and

nonrelated extended family members, and other supportive adults consistent with the law and any applicable court orders.

(2) The licensee shall maintain this plan in its plan of operation as required by Section 87022.

(b) The licensee shall develop, maintain and implement a written plan for the training of facility managers.

(1) The facility manager training plan shall be incorporated in the short-term residential therapeutic program's program statement.

(2) The training plan shall include the following for each training session:

(A) Course title and subject matter;

(B) Learning objectives and activities;

(C) Number of hours per training session;

(D) Qualifications of the trainer; and

(E) Training evaluation.

1. Each session shall include an evaluation of the trainer and course content to determine if the training is meeting the needs of facility personnel acting as facility managers.

(3) The training plan shall be designed to ensure the provision of trauma-informed services and be appropriate for the population and shall consider the training needs and skill level of staff.

(A) The licensee shall amend the training plan, as necessary, to meet the needs of facility personnel acting as facility managers and the population.

(4) Amendments to the staff training plan shall be submitted to the Department within ten (10) days.

(5) Training shall include, but not be limited to, the following. The licensee may determine how much time is spent on each topic:

(A) Interaction with the Department, including inspection authority.

(B) Licensee appeal rights.

(C) Interaction with placement agencies, neighbors, mental health agencies, law enforcement, medical/emergency personnel, children's family members and child and family teams.

(D) Laws and regulations governing short-term residential therapeutic programs.

(E) Emergency and disaster response.

(F) Implementation of the assessment by the qualified individual, as specified in section 87022.1(b)(8)(A), and information about the qualified individual's assessment process pursuant to Sections 4096 and 11462.01 of the Welfare and Institutions Code.

(G) Facilitation of participation of family members in child's treatment program and documentation of integration of family members into the treatment process, as specified in section 87022.1(b)(13)(A).

(H) Facilitation of outreach to family members and documentation of outreach, as specified in section 87022.1(b)(13)(A).

(I) A child's right to receive gender affirming sexual and reproductive health care and information.

(J) A child's right to have their health information kept confidential.

(K) The duties and responsibilities of the assigned case management worker and the licensee to ensure that children can obtain sexual and reproductive health services and information.

(L) Guidance about how to engage and talk with children about healthy sexual development and reproductive and sexual health in a manner that is medically accurate, gender affirming, age or developmentally appropriate, and trauma-informed.

(M) Information about current contraception methods and how to select and provide appropriate referral resources and materials for information and service delivery.

(6) The training requirement may be satisfied by successful completion of course work conducted in a workshop, seminar, or classroom setting, individual or small group setting.

(A) Proof of successful completion of course work shall be limited to official grade slips or transcripts, or certificates or signed documentation issued by colleges, or adult education departments, bona fide educational institutions or organizations, or licensee associations, or courses offered or approved by accredited educational institutions, or other individuals who are qualified and possess the necessary skills, knowledge and experience to train others in a particular subject area.

1. The above referenced individuals who are qualified shall meet the requirements specified in Section 87065.1(c)(4)(E)1.

(7) Documentation of successful completion of training shall be maintained in the personnel record for each staff member.

(8) Facility manager training is in addition to first aid and CPR training, and other training as required in Section 87095.65.

(A) Completion of cardiopulmonary resuscitation (CPR) and first aid training shall be demonstrated by current and valid CPR and first aid cards issued by the American Red Cross, the American Heart Association, a training program approved by the State Emergency Medical Services Authority pursuant to Health and Safety Code Section 1797.191, or from an accredited college or university.

(c) The licensee shall develop, maintain, and implement a written plan for the supervision, evaluation, and training of all direct care staff.

(1) The direct care staff training plan, as specified in Sections 87065.1(c) and (d) shall be incorporated in the short-term residential therapeutic program's program statement.

(2) The training plan shall address the initial 24-hour training for newly hired direct care staff.

(A) When the training plan includes job shadowing activities as described in Section 87065.1(d)(1)(D), the following shall be included in the training plan:

1. Specific activities;
2. Job classification of the individual being shadowed;
3. Time spent on each activity; and
4. Skill to be developed through each job shadowing activity.

(3) The training plan shall address the annual training for newly hired and existing direct care staff.

(4) The training plan shall include for each training session the following:

(A) Course title and subject matter;

(B) Learning objectives and activities:

(C) Number of hours per training session;

(D) Qualification of the trainer; and

(E) Training evaluation.

1. Each session shall include an evaluation of the trainer and course content to determine if the training is meeting the needs of direct care staff.

(5) The training plan shall be designed to ensure the provision of trauma-informed services and be appropriate for the population and the training needs and skill level of direct care staff.

(A) The licensee shall amend the training plan, when necessary, to meet the needs of direct care staff and the population.

(6) Amendments to the staff training plan shall be submitted to the Department within ten (10) days of the occurrence and submitted to the placing agency for optional review.

(d) Notwithstanding California Code of Regulations, Title 22, Section 80065(f)(1) through (6), new direct care staff shall complete a minimum of 24 hours of initial training comprised of the 8- and 16-hour training as specified in (1) and (2) below:

(1) 8-Hour Training

(A) Training shall be completed before new direct care staff are:

1. Left alone with children, and
2. Counted in the staff to child ratio required in Sections 87065.5 and 87065.~~7~~6.

(B) Until the 8 hours of training is completed, new direct care staff shall be visually supervised at all times by direct care staff who meet the training requirements specified in this subsection and (2) below.

(C) The 8-hour training shall include trauma-informed training as specified in Section 87078.2(a)(3).

(D) A maximum of 4 hours of the training requirement may be satisfied by successful completion of job shadowing.

1. For the purpose of this regulation, job shadowing means a process whereby new direct care staff follow and observe experienced facility personnel performing a specific job. The purpose of job shadowing is to gain information related to a specific job including, materials used, physical demands, necessary skills and knowledge.
2. During shadowing, the experienced facility personnel being shadowed must be performing care and supervision duties and counted in the staff to child ratios, as required in Sections 87065.5 and 87065.~~7~~6.
3. Job shadowing shall promote the development of specific skills, and shall consist of specific activities for a specific time period.
4. Successful completion of job shadowing shall be verified by a statement completed by the experienced facility personnel being

shadowed affirming: a) specific activity observed; b) dates and times of shadowing; and, c) training topic listed in Section 87065.1(d)(3)(A) through (~~Z~~DD) that is satisfied by the job shadowing activity.

(E) Within 7 calendar days of completion of the 8-hour training, the administrator or administrator's designee shall assess if each direct care staff understands and can apply the training.

1. The assessment may include observation of performance, post-testing or demonstrated hands-on competency.
2. The assessment shall be documented in each direct care staff personnel record.
3. When the administrator or administrator's designee determines a direct care staff does not understand and cannot apply the training, re-training is required.

(2) Sixteen hours of training shall be completed by new direct care staff within 90 days of hire.

(A) New direct care staff who work a maximum of 20 hours per week shall complete the additional minimum 16 hours of training within 180 days of hire.

(B) Within thirty (30) days of completion of the 16-hour training, the administrator or administrator's designee shall assess if each newly hired direct care staff understands and can apply the training.

1. The assessment may include observation of performance, post-testing or demonstrated hands-on competency.
2. The assessment shall be documented in each direct care staff personnel record.

3. When the administrator or administrator's designee determines a direct care staff does not understand and cannot apply the training, re-training is required.

(3) Training shall include, at a minimum, all of the following topics. The licensee shall determine how much time is spent on each topic, and shall ensure that direct care staff have appropriate skills necessary to supervise and protect the health and safety of children in care.

(A) Overview of the population served by the short-term residential therapeutic program;

(B) Facility's program and services, including program philosophy, activities and community resources;

(C) Facility's policies and procedures, including reporting requirements to the Department and as a mandated reporter;

(D) Direct care workers' job description, including roles and responsibilities;

(E) Direct care workers' self-awareness and appropriate boundaries for physical and verbal interactions with children or nonminor dependents who have a history of abuse, neglect or other trauma;

(F) Role of other facility personnel in service delivery, including case staffing and the designated staff member(s) applying the reasonable and prudent parent standard;

(G) Discipline policies and procedures, expectations and consequences for nonminor dependents, positive discipline, and the importance of self-esteem;

(H) Emergency and disaster response;

(I) Medical emergency response;

(J) Teamwork and interpersonal communication among facility personnel and children, children's family members and child and family team members;

(K) Teamwork and intra-facility communication;

(L) The role of placement workers and the role of the qualified individual;

(M) Medication procedures, assistance with medication, universal precautions, infection control procedures for epidemic or pandemic outbreaks of illness, recognition of early signs of illness and the need for professional assistance, and other health related issues, including oversight and monitoring of psychotropic medications for children in foster care and related topics in accordance with the training described in section 16501.4(d) of Welfare and Institutions Code.

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Welfare and Institutions Code subdivision (d) of Section 16501.4 provides:

"In consultation with the State Department of Health Care Services, the Judicial Council, the County Welfare Directors Association of California, the County Behavioral Health Directors Association of California, the Chief Probation Officers of California, and stakeholders, the State Department of Social Services shall develop training that may be provided to county child welfare social workers, probation officers, courts hearing cases pursuant to Section 300, 601, or 602, children's attorneys, children's caregivers, court-appointed special advocates, and other relevant staff who work with children under the jurisdiction of the juvenile court that addresses the authorization, uses, risks, benefits, assistance with self-administration, oversight, and monitoring of psychotropic medications, trauma, and substance use disorder and mental health treatments, including how to access those treatments."

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(N) Short-term residential therapeutic program children's adjustment to congregate care;

(O) California Code of Regulations, Title 22, and the STRTP Interim Licensing Standards;

(P) Recreation activities and resources;

(Q) The children's personal rights as specified in Welfare and Institutions Code section 16001.9 and Section 87072, including, but not limited to, the right to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity and expression, mental or physical disability, ~~or~~ medical condition, genetic information, marital status, HIV status, citizenship, immigration status or primary language;

(R) The facility's policies and procedures concerning when and how to involve law enforcement in response to an incident involving a child residing in the facility.

1. The training shall include the right of children in foster care to have law enforcement intervention requested only when there is an imminent threat to the life or safety of a child or another person, or as a last resort after other diversion and de-escalation techniques have been utilized, and not to have law enforcement intervention used as a threat or in retaliation against the child.

(S) Instruction on cultural competency and sensitivity relating to sexual orientation, gender identity and expression, and best practices for, providing adequate care for children across diverse ethnic and racial backgrounds, as well as children identifying as lesbian, gay, bisexual and transgender;

(T) The effects of trauma, including grief and loss, and child abuse and neglect on child development and behavior and methods to behaviorally support children impacted by that trauma or child abuse and neglect;

(U) An overview of the child welfare and probation systems;

(V) Awareness and identification of commercial sexual exploitation and best practices for providing care and supervision to children who have survived or have been impacted by commercial sexual exploitation;

(W) The federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), its historical significance, the rights of Indian children covered by the act, and the best interests of Indian children, including the role of the caregiver in supporting culturally appropriate child centered practices that respect Native American history, culture, retention of Tribal membership, and connection to the Tribal community and traditions;

(X) Physical and psychosocial needs of children, including behavior management, de-escalation techniques, and trauma-informed crisis management planning, including the use of emergency interventions;

(Y) Best practices for providing care and supervision to nonminor dependents.

(Z) Health issues in foster care;

(AA) A child's right to receive gender affirming sexual and reproductive health care and information;

(BB) A child's right to have their health information kept confidential;

(CC) Guidance about how to engage and talk with children about healthy sexual development and reproductive and sexual health in a manner that is medically accurate, gender affirming, age or developmentally appropriate, and trauma-informed;

(DD) Information about current contraception methods and how to select and provide appropriate referral resources and materials for information and service delivery.

(4) The training requirement shall be satisfied by successful completion of course work conducted in a workshop, seminar, classroom setting, individual or small group setting.

(A) Proof of successful completion of course work shall be limited to official grade slips or transcripts from colleges or adult education departments, or certificates or signed documentation issued by bona fide educational institutions or organizations, or licensee associations, or courses offered or approved by accredited educational institutions, or other individuals who are qualified and possess the necessary skills, knowledge and experience to train others in a particular subject area.

1. The above referenced individuals who are qualified shall possess: a) a master's degree in a behavioral science from an accredited college or university and one year experience as an administrator, social worker, direct care staff, or independent contractor providing direct social work activities in a group home or short-term residential therapeutic program; or, b) a master's degree and one year of work experience with the population served or a bachelor's degree and two years of work experience with the population served; or, c) a licensed mental health professional, as defined in California Code of Regulations Title 9, Chapter 12, Section 1901(p) or, d) a certificate or credential from an accredited course of study or educational institution in the subject matter for which the individual will be providing training; e) or, an individual who has provided training to group home or short-term residential therapeutic program direct care staff for three years and has at least three years' work experience in the subject matter of the training.

(5) Documentation of successful completion of training shall be maintained in the personnel record for each direct care staff.

(6) The 24 hours of initial training are in addition to first aid and CPR training, and other training as required in Section 87095.65.

(A) Completion of cardiopulmonary resuscitation (CPR) and first aid training shall be demonstrated by current and valid CPR and first aid cards issued by the American Red Cross, the American Heart Association, a training program approved by the State Emergency Medical Services Authority pursuant to Health and Safety Code Section 1797.191, or from an accredited college or university.

(e) Annual Training

(1) Notwithstanding California Code of Regulations, Title 22, Sections 80065(f)(1) through (6), all direct care staff shall complete a minimum of 40 hours of annual training, except as specified in (2) below.

(A) At least 20 of the 40 hours of annual training shall consist of course work from an entity other than the short-term residential therapeutic program such as an accredited educational institution, workshops, seminars, or other direct training provided by an individual who is qualified, who meets the requirements specified in Section 87065.1(d)(4)(A)1., who is not affiliated with the short-term residential therapeutic program licensee.

(2) Notwithstanding California Code of Regulations, Title 22, Section 80065(f)(1) through (6), newly hired direct care staff shall complete a minimum of 16 hours of annual training within the first 12 months of employment, for a total of 40 hours of initial and annual training. After the first 12 months of employment, direct care staff shall comply with (1) above.

(A) At least 4 hours of the annual training shall consist of course work from an entity other than the short-term residential therapeutic program such as an accredited educational institution, workshops, seminars, or other direct training provided by an individual who is qualified and meets the requirements specified in Section 87065.1(d)(4)(A)1., who is not affiliated with the short-term residential therapeutic program licensee.

(3) Training must include the following topics:

(A) Child and adolescent development, including sexual orientation, gender identity and gender expression;

(B) Core practice model;

(C) Permanence, well-being, and educational needs of children;

(D) Basic instruction on existing laws and procedures regarding the safety of foster children at school; and ensuring a harassment and violence free school environment.

(E) Best practices for providing care and supervision to nonminor dependents.

(F) Oversight and monitoring of psychotropic medications for children in foster care and related topics described in the training developed pursuant to Section 16501.4(d) of the Welfare and Institutions Code.

(G) Trauma-informed interventions and practices.

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Welfare and Institutions Code subdivision (d) of Section 16501.4 provides:

> "In consultation with the State Department of Health Care Services, the Judicial Council, the County Welfare Directors Association of California, the County Behavioral Health Directors Association of California, the Chief Probation Officers of California, and stakeholders, the State Department of Social Services shall develop training that may be provided to county child welfare social workers, probation officers, courts hearing cases pursuant to Section 300, 601, or 602, children's attorneys, children's caregivers, court-appointed special advocates, and other relevant staff who work with children under the jurisdiction of the juvenile court that addresses the authorization, uses, risks, benefits, assistance with self-administration, oversight, and monitoring of psychotropic medications, trauma, and substance use disorder and mental health treatments, including how to access those treatments."

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(4) Training may also include, but is not limited to, any of the following additional topics:

(A) The effects of trauma, including grief and loss, and neglect/abuse issues;

(B) Attachment issues;

(C) Behavior problems/psychological disorders;

(D) Mental health/behavioral interventions;

(E) Developmental disabilities;

(F) Substance abuse issues;

(G) Cultural diversity;

(H) Child empowerment;

(I) Transfer and emancipation;

(J) Importance of sibling and family relationships;

(K) Placement agencies and the placement process;

(L) Needs and service plan/treatment planning and review;

(M) Employee training handbook; and

(N) Any topics listed in Section 87065.1(d)(3) that are not already required by Section 87065.1(e)(3);

(O) Best practices for providing care and supervision to nonminor dependents;

(P) Health issues in foster care;

(Q) Harm reduction.

(5) Training topics shall be appropriate for the population and services provided by the facility.

(6) The training requirement may be satisfied by successful completion of course work conducted in a workshop, seminar, or classroom setting, individual or small group setting.

(A) Proof of successful completion of course work shall be limited to official grade slips or transcripts, or, certificates or signed documentation issued by colleges, or adult education departments, bona fide educational institutions or organizations, or licensee associations, or courses offered or approved by accredited educational institutions, or other individuals who are qualified and possess the necessary skills, knowledge and experience to train others in a particular subject area.

1. The above referenced individuals who are qualified shall meet the requirements specified in Section 87065.1(d)(4)(A)1.

(7) Documentation of successful completion of training shall be maintained in the personnel record for each direct care staff.

(8) Annual training is in addition to first aid and CPR training, and other training as required in Section 87095.65.

(A) Completion of cardiopulmonary resuscitation (CPR) and first aid training shall be demonstrated by current and valid CPR and first aid cards issued by the American Red Cross, the American Heart Association, a training program approved by the State Emergency Medical Services Authority pursuant to Health and Safety Code Section 1797.191, or from an accredited college or university.

(f) Peer partners shall meet the following training requirements:

(1) Prior to working with children a peer partner shall be certified in cardiopulmonary resuscitation (CPR) and first aid, which shall be demonstrated by current and valid pediatric CPR and first aid cards issued by the American Red Cross, the American Heart Association, a training program approved by the State Emergency Medical Services Authority pursuant to Health and Safety Code Section 1797.191, or from an accredited college or university, and shall have received 16 hours of training on the following topics:

(A) The confidentiality of information and records relating to children in the short-term residential therapeutic program;

(B) Teamwork and interpersonal communication among facility personnel and children, children's family members and child and family team members;

(C) The children's personal rights as specified in Welfare and Institutions Code section 16001.9 and Section 87072, including, but not limited to, the right to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity and expression, mental or physical disability, medical condition, genetic information, marital status, ~~or~~ HIV status, citizenship, immigration status or primary language;

(D) Physical and psychosocial needs of children, including behavior management, de-escalation techniques, and trauma-informed crisis management planning; including the use of emergency interventions;

(E) Child and adolescent development, including sexual orientation, gender identity and gender expression.

(2) Within 90 days of employment, a peer partner shall receive an additional 16 hours of training in the following topics:

(A) An overview of the child welfare and probation systems;

(B) Permanence, well-being, and educational needs of children;

(C) Overview of the population served by the short-term residential therapeutic program;

(D) Physical and psychosocial needs of children, including behavior management, de-escalation techniques, and trauma-informed crisis management planning, including the use of emergency interventions;

(E) The effects of trauma, including grief and loss, and child abuse and neglect on child development and behavior and methods to behaviorally support children impacted by that trauma or child abuse and neglect;

(F) Awareness and identification of commercial sexual exploitation and best practices for providing care and supervision to commercially sexually exploited children.

(g) Volunteers shall meet the following training requirements:

(1) Prior to working with children, a volunteer shall have received 16 hours of training on the following topics:

(A) The confidentiality of information and records relating to children in the short-term residential therapeutic program;

(B) Teamwork and interpersonal communication among facility personnel and children, children's family members and the child and family team members;

(C) The children's personal rights as specified in Welfare and Institutions Code section 16001.9 and Section 87072, including, but not limited to, the right to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity and expression, mental or physical disability, medical condition, genetic information, marital status, ~~or~~ HIV status, citizenship, immigration status or primary language;

(D) Physical and psychosocial needs of children, including behavior management, de-escalation techniques, and trauma-informed crisis management planning, including the use of emergency interventions;

(E) Child and adolescent development, including sexual orientation, gender identity and gender expression.

(2) Within 90 days of starting, a volunteer shall receive an additional 16 hours of training in the following topics:

(A) An overview of the child welfare and probation systems;

(B) Permanence, well-being, and educational needs of children;

(C) Overview of the population served by the short-term residential therapeutic program;

(D) Physical and psychosocial needs of children, including behavior management, de-escalation techniques, and trauma-informed crisis management planning, including the use of emergency interventions;

(E) The effects of trauma, including grief and loss, and child abuse and neglect on child development and behavior and methods to behaviorally support children impacted by that trauma or child abuse and neglect;

(F) Awareness and identification of commercial sexual exploitation and best practices for providing care and supervision to commercially sexually exploited children.

(h) The licensee shall ensure that each employee designated to apply the reasonable and prudent parent standard, as described in Section 87065(d), receives related training as specified in Health and Safety Code section 1522.44(c).

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Health and Safety Code section 1522.44 provides in part:

"(a) It is the policy of the state that caregivers of children in foster care possess knowledge and skills relating to the reasonable and prudent parent standard, as defined in subdivision (c) of Section 362.05 of the Welfare and Institutions Code.

(b) Except for licensed foster family homes, certified family homes, and resource families approved by a foster family agency, each licensed community care facility that provides care and supervision to children and operates with staff shall designate at least one onsite staff member to apply the reasonable and prudent parent standard to decisions involving

the participation of a child who is placed in the facility in age or developmentally appropriate activities in accordance with the requirements of Section 362.05 of the Welfare and Institutions Code, Section 671(a)(10) of Title 42 of the United States Code, and the regulations adopted by the department pursuant to this chapter.

(c) A licensed and certified foster parent, resource family, or facility staff member, as described in subdivision (b), shall receive training related to the reasonable and prudent parent standard that is consistent with Section 671(a)(24) of Title 42 of the United States Code. This training shall include knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities, including knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child, and knowledge and skills relating to applying the standard to decisions such as whether to allow the child to engage in extracurricular, enrichment, cultural, and social activities, including sports, field trips, and overnight activities lasting one or more days, and to decisions involving the signing of permission slips and arranging of transportation for the child to and from extracurricular, enrichment, and social activities.

[Cont.]”

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NOTE: Authority cited: Sections 1522.41(j), 1522.44, 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Section 51, Civil Code; Sections 1501, 1522.4, 1522.44(b) and (c) 1531, 1562, and 1562.01, Health and Safety Code; and Sections 362.05(a), 16001.9, and 16501.4(d), Welfare and Institutions Code.

87065.2 PERSONNEL DUTIES.

(a) The facility manager(s) shall meet the requirements of Health and Safety Code section 1522.4 and be responsible for:

(1) Managing the day-to-day operation of the short-term residential therapeutic program.

(2) Supervising the direct care staff, ensuring appropriate care and supervision is provided to children in accordance with applicable law, licensing regulations, and the facility's policies.

(3) Supervising children, as needed.

(4) Overseeing the planned activities required to be available to children as specified in Section 87079.

(5) Ensuring the general upkeep of the facility.

(6) Reporting to the administrator and making recommendations to address identified problems.

(7) Any other duties that may be necessary to manage the facility.

(b) Direct care staff shall perform the following duties:

(1) Supervision, protection, and care of children at all times, individually and in groups.

(2) Assistance to each child in working with a group and in handling individual problems.

(3) Administration of discipline and setting of limits for behavior that are consistent with trauma-informed care standards.

(4) Notation of the child's progress; identification of the possible need for additional professional services; and communication of such findings to professional staff.

(5) Until they complete the 8 hours of training as required in Section 87065.1(~~j~~d)(1), new direct care staff shall perform the duties as defined in Subsections (1) through (4) above while under visual supervision.

(6) Assistance with the provision of or access to core services and supports, daily activities, and emotional and social supports, as necessary.

(7) Reporting to the facility manager and making recommendations to address identified problems.

(8) Applying interventions, techniques, and practices that are trauma-informed, culturally relevant, age and developmentally appropriate and consistent with a child's needs and services plan and treatment plan.

(9) Any other duties that may be necessary to ensure the health and safety of children in the facility.

(c) Social work staff shall complete or assist in the completion of the following for each child:

(1) All intake procedures, as specified in Section 87068.1 and 87068.11.

(2) A needs and services plan, as specified in Sections 87068.2(a), 87068.22(b), and 87068.3, and updating as needed.

(3) A transfer plan, as specified in Section 87068.4.

(4) Obtaining, developing, and recording of the information necessary for the completion of (1) through (3) above, as specified in Section 87070.

(5) Ensuring provision of or access to core services and supports specified in Section 87078.1.

(d) Support staff shall perform the following duties:

(1) Office work.

(2) Cooking.

(3) Housecleaning.

(4) Laundering.

(5) Maintenance of facility buildings, grounds, fixtures, furniture, equipment and supplies.

(e) Support staff duties shall not be assigned to direct care staff unless such assignments are directly related to the care of the children, and do not interfere with the performance of their regular duties.

(1) Household duties directed towards development of self-help skills may be performed by the children in placement. Participation in these duties shall be voluntary and specified in the needs and service plan.

(2) No household duties shall go undone because a child refuses to participate.

NOTE: Authority cited: Sections 1530, 1530.8, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch.
732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1501.1, 1522.4, 1530.8 1531, and 1562.01, Health and Safety Code.

87065.5 DIRECT CARE STAFF/CHILD RATIOS.

(a) In a facility with a licensed capacity of six or fewer children, there shall be coverage by direct care staff as follows:

(1) During the hours of 7 am to 10 pm, there shall be one awake and on duty direct care staff for every three children, or fraction thereof, present, at a minimum.

(2) During the hours of 10 pm to 7 am, there shall be one awake and on duty direct care staff for every six children, or fraction thereof, present, at a minimum.

(3) In addition to staff required in paragraph 1 or 2, when one or more children are present at the facility, at least one direct care staff shall be on call and capable of arriving at the facility site within 30 minutes.

(b) In a facility with a licensed capacity of seven or more children, there shall be coverage by direct care staff as follows:

(1) During the hours of 7 am to 10 pm:

(A) When only one child is present at the facility, there shall be at least one awake and on duty direct care staff present at the facility.

(B) When there are two to four children present at the facility, there shall be at least two awake and on duty direct care staff present at the facility.

(C) When there are five or more children present at the facility, there shall be at least one awake and on duty direct care staff present at the facility for every four children, or fraction thereof, present at the facility.

(2) During the hours of 10 pm to 7 am:

(A) When only one child is present at the facility, there shall be at least one awake and on duty direct care staff present at the facility.

(B) When there are two to six children present at the facility, there shall be at least two awake and on duty direct care staff present at the facility.

(C) When there are seven or more children present at the facility, there shall be at least one awake and on duty direct care staff present at the facility for every six children, or fraction thereof, present at the facility.

(c) There shall be at least one awake and on duty direct care staff present for every four children, or fraction thereof, participating in planned activities away from the facility.

(d) (1) If a direct care staff has to follow a child beyond the premises of the facility or leave the facility with a child due to an emergency, resulting in the facility being temporarily out of compliance with the direct care staff to child ratio specified in this section, replacement staff shall arrive at the facility within 30 minutes from the point in time the facility became out of compliance with the staffing ratio contained in this section.

(2) Notwithstanding subdivision (d)(1), under no circumstance shall a child be left unsupervised at the facility.

(e) A facility may count its certified administrator, facility manager, or a mental health rehabilitation specialist, as defined by the Department of Healthcare Services, towards its staff to children ratio, provided:

(1) Doing so does not prevent the individual from conducting the specific duties for which they are employed.

(2) Appropriate care and supervision is maintained.

(3) The individual has completed a criminal record review and a Child Abuse Center Index check in accordance with applicable law.

(f) In facilities required to have a signal system as specified in Section 87088(e)~~(d) through (d)(3),~~ at least one staff person shall be responsible for responding to such system.

(g) If a child requires special care and supervision because of age, behavior or other factors, the number of on-duty direct care staff shall be increased.

NOTE: Authority cited: Sections 1530, 1530.8, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch.

732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Section 11465, Welfare and Institutions Code; and Sections 1501, 1530.8 1531, and 1562.01 Health and Safety Code.

87065.6 ADDITIONAL STAFF/CHILD RATIOS FOR SPECIALIZED SHORT-TERM RESIDENTIAL THERAPEUTIC PROGRAMS.

(a) The licensee shall ensure that staff providing specialized in-home health care are responsible for the provision of care and supervision to no more than three children, with or without special health care needs.

NOTE: Authority Cited: Section 17730, Welfare and Institutions Code; and Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Section 17732(a), Welfare and Institutions Code; Section 1562.01, Health and Safety Code.

87066 PERSONNEL RECORDS.

(a) In addition to California Code of Regulations, Title 22, Section 80066, the following shall apply.

(b) The licensee shall maintain the following personnel records:

(1) Complete job descriptions on all positions within the facility.

(2) A description of all staff assignments, including information regarding lines of authority and staff responsibilities.

(3) A dated employee time schedule developed at least monthly; displayed conveniently for employee reference; and containing the following information for each employee:

(A) Name.

(B) Job title.

(C) Hours of work.

(D) Days off.

(4) Documentation of the completion by each direct care staff person and facility manager of the training specified in Sections 87065.1(b) through (e) inclusive.

(5) Documentation that the administrator has met the certification requirements specified in Section 87064.2.

(6) A record of each work performance evaluation and any correspondence with the employee.

(c) (1) Notwithstanding California Code of Regulations, Title 22, Section 80066(a)(4), for facility managers and staff members of a short-term residential therapeutic program who provide direct care and supervision to children residing in the facility, each personnel record shall contain a statement signed by the employee that they are at least 21 years of age.

NOTE: Authority cited: Sections 1522.41(j), 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017,
Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1522.41, 1531 1562, and 1562.01, Health and Safety Code.

87066.1 ADDITIONAL PERSONNEL RECORDS FOR SPECIALIZED SHORT-TERM RESIDENTIAL THERAPEUTIC PROGRAMS.

(a) The licensee shall ensure that the personnel records of all persons subject to the requirements of Section 87065.05(a) contain the following:

(1) Documentation that the child's individualized health care plan team has determined that the in-home health care provider has the necessary medical qualifications and expertise to meet the child's specialized in-home health care needs.

(A) Documentation shall be updated each time the child's specialized in-home health care needs change.

(B) Documentation may be provided in different ways, including, but not limited to, a written statement from a member designated by the team that the team has been notified and has determined that the in-home health care provider has the necessary medical qualification to meet the child's specialized in-home health care needs.

(2) A copy of a valid license or certificate indicating that the in-home health care provider is a licensed health care professional.

(b) For each volunteer caring for children in a specialized short-term residential therapeutic program, the licensee shall have on file the record of a health screening and test for tuberculosis as specified in Section 87065.05(b). The health screening shall be used in place of the volunteer statement specified in Section 80065(g)(3)(A).

NOTE: Authority cited: Section 17730, Welfare and Institutions Code; and Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Section 17731, Welfare and Institutions Code; and Sections 1501, 1531, 1562, and 1562.01, Health and Safety Code.

87067 REASONABLE AND PRUDENT PARENT STANDARD.

(a) The facility staff member, designated by the licensee as described in Section 87065(d) shall apply the "Reasonable and Prudent Parent Standard," as defined in Section 87001(r)(1), in determining whether to allow a child to participate in age or developmentally appropriate extracurricular, enrichment, cultural and social activities.

(1) Applying the reasonable and prudent parent standards shall not result in denying the rights of a child as specified in Section 87072 and Welfare and Institutions Code section 16001.9, or contradict court orders or the needs and services plan of the child.

(b) In applying the reasonable and prudent parent standard the administrator or facility manager, or their responsible designee, shall consider the following:

(1) The age, maturity, and developmental level of the child.

(2) The nature and inherent risks of harm of the activity.

(3) The best interests of the child based on information provided to or known by the administrator or facility manager or their responsible designee about the child. This information includes the history, behavioral tendencies, mental and physical health, medications, abilities and limitations, sexual orientation, gender identity and expression, developmental level, and court orders for the child.

(A) The administrator or facility manager, or their responsible designee, may consult with staff members who are most familiar with the child, or contact the child's social worker, physician, counselor, or educator to obtain the information described above in paragraph (3).

(4) The behavioral history of the child and the child's ability to safely participate in the proposed activity.

(5) The importance of encouraging the child's emotional and developmental growth.

(A) Emotional and developmental growth may include, but not be limited to: the child's level of understanding about healthy relationships, the child's level

of understanding about sexuality and body development, feelings about spirituality, and other stages of maturity experienced during adolescence and young adulthood.

(6) The importance of providing the child with the most family-like living experience possible.

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The "Reasonable and Prudent Parent Standard" allows every child in placement the opportunity to participate in age and developmentally-appropriate extracurricular, enrichment, cultural and social activities. The facility staff member, as described in Section 87065(d), is encouraged to consult with social work or treatment staff members who are most familiar with the child.

The facility staff member, as described in Section 87065(d), is encouraged to document the type of activity and steps taken to ensure the appropriateness of the activity. Documentation provides evidence that staff took the necessary precautions to make informed, reasonable, and prudent decisions that ensures the health and safety of the child.

Welfare and Institutions Code Section 362.05 provides in part:

"(a) (1) Every child adjudged a dependent child of the juvenile court shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities, including, but not limited to, access to computer technology and the Internet. A state or local regulation or policy shall not prevent, or create barriers to, participation in those activities. Each state and local entity shall ensure that private agencies that provide foster care services to dependent children have policies consistent with this section and that those agencies promote and protect the ability of dependent children to participate in age-appropriate extracurricular, enrichment, and social activities, including, but not limited to, access to computer technology and the Internet. A short-term residential therapeutic program or a group home administrator, a facility manager, or his or her responsible designee, and a caregiver, as defined in paragraph (1) of subdivision (a) of Section 362.04, shall use a reasonable and prudent parent standard in determining whether to give permission for a child residing in foster care to participate in extracurricular, enrichment, and social activities, including, but not limited to, access to computer technology and the Internet. A short-term residential therapeutic program or a group home administrator, a facility manager, or his or her responsible designee, and a caregiver shall take reasonable steps to determine the appropriateness of the activity in consideration of the child's age, maturity, and developmental level.
(2) Training for caregivers shall include knowledge and skills relating to the reasonable and

prudent parent standard for the participation of the child in age or developmentally appropriate activities, consistent with this section and Section 671(a)(24) of Title 42 of the United States Code.

(b) A short-term residential therapeutic program or a group home administrator, a facility manager, or his or her responsible designee, is encouraged to consult with social work or treatment staff members who are most familiar with the child at the group home in applying and using the reasonable and prudent parent standard.

Welfare and Institutions Code section 727(a)(4) provides in part:

"(F) (i) A minor adjudged a ward of the juvenile court shall be entitled to participate in age- appropriate extracurricular, enrichment, and social activities. A state or local regulation or policy shall not prevent, or create barriers to, participation in those activities. Each state and local entity shall ensure that private agencies that provide foster care services to wards have policies consistent with this section and that those agencies promote and protect the ability of wards to participate in age-appropriate extracurricular, enrichment, and social activities. A short-term residential therapeutic program or a group home administrator, a facility manager, or their responsible designee, and a caregiver, as defined in paragraph (1) of subdivision (a) of Section 362.04, shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04, in determining whether to give permission for a minor residing in foster care to participate in extracurricular, enrichment, and social activities. A short-term residential therapeutic program or a group home administrator, a facility manager, or their responsible designee, and a caregiver shall take reasonable steps to determine the appropriateness of the activity taking into consideration the minor's age, maturity, and developmental level. For every minor placed in a setting described in subparagraphs (A) through (E), inclusive, age-appropriate extracurricular, enrichment, and social activities shall include access to computer technology and the internet.

(ii) A short-term residential therapeutic program or a group home administrator, facility manager, or their responsible designee, is encouraged to consult with social work or treatment staff members who are most familiar with the minor at the group home or short-term residential therapeutic program in applying and using the reasonable and prudent parent standard.

[Cont.]"

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NOTE: Authority cited: Sections 1501, 1530, 1531, and 1562.01(q), Health and Safety Code; AB

403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Section 1522.44, and 1562.01, Health and Safety Code; Sections 362.04, 362.05, 727 and 16001.9, Welfare and Institutions Code; and AB 2096, Stats. 2008, Ch. 483.

87068.05 ADMISSION DETERMINATION PROCEDURES.

(a) The licensee shall develop, maintain, and implement procedures to determine whether to admit or deny admission to a child referred to the facility, which meet the requirements specified in this section.

(b) When a child is referred for placement in a short-term residential therapeutic program, the licensee shall document the referral.

(1) Documentation of referrals shall include but not be limited to the following:

(A) The placing agency making the referral request;

(B) The date and time that the referral was received;

(C) The name, age, and gender identity of the child being referred.

(c) The licensee shall specify the procedures by which a determination is made in response to a referral from a placing agency. The procedures shall:

(1) Demonstrate the willingness and capacity to assess and determine the appropriateness of placement within the program, consistent with the population to be served, on an individualized basis for each child referred by the placing agency.

(2) Consider the child's needs and strengths, the likelihood that the child will benefit from the program, and the extent to which the child's needs are in common with the children currently placed in the facility.

(3) Include an explanation of how the program will evaluate the appropriateness of placement for referred children with any of the following behaviors or characteristics, including how the licensee defines these characteristics for the purposes of assessing appropriateness of fit:

(A) Frequent runaways

(B) Gang-related activity

(C) Firestarting

(D) Sexually assaultive behaviors

(E) History of Commercial Sexual Exploitation

(F) Substance abuse

(4) Specify the following:

(A) The timeframe for and manner of response to referrals for placement

1. The facility shall establish timeframes for response to the county placing agency regarding referrals for placement. The established timeframes must include, but are not limited to, an initial response period in which the facility accepts, denies, or requires more information for the consideration of the referral for placement and a final response period in which the facility accepts or denies the referral for placement. The facility's initial response period shall not exceed 5 days following the receipt of referral for placement.

(B) The minimum information that is necessary for a placing agency to provide to the short-term residential therapeutic program in order for placement to be considered.

(d) If a licensee conducts an interview with a child during the admission process, the interview shall not be used to assess or determine placement appropriateness or deny admission.

(e) The licensee shall not utilize the behaviors and characteristics as provided in (c)(3)(A)-(F) as the sole basis to assess or determine placement appropriateness or deny admission.

(f) Upon the request of a placing agency director and the authorized representative of the county mental health plan, or their designees, the licensee shall engage in a good-faith effort, together with the placing agency director and the authorized representative of the county mental health plan, or their designees, to determine the appropriateness of the placement.

(1) The licensee shall specify the procedures by which such an elevated review would occur.

(g) If the licensee determines that the program is not capable of meeting the child's needs without additional services and/or supports, the licensee shall request such assistance from

the placing agency, Community Based Organization, or any other resource, and shall document this request.

(h) If the licensee determines that the program is not capable of meeting the child's needs, even with additional services and/or supports, or if the identified services and supports are not available, the licensee shall document this denial, including the reason for denial.

(i) If the child is accepted for placement, the licensee shall follow intake procedures as specified in Section 87068.1 for children and Section 87068.11 for nonminor dependents.

(j) All documentation required by this section shall be made available to the Department upon request.

(k) Nothing in this section shall supersede any requirement applicable to emergency placements.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1502, 1531, and 1562.01, Health and Safety Code.

87068.1 INTAKE PROCEDURES.

(a) The licensee shall develop, maintain, and implement intake procedures which meet the requirements specified in this section.

(b) A licensed short-term residential therapeutic program, as defined in paragraph (18) of subdivision (a) of Section 1502, may only accept for placement a child who does not require inpatient care in a licensed health facility and who has been assessed pursuant to Section 11462.01 of the Welfare and Institutions Code as meeting the applicable criteria for placement in a short-term residential therapeutic program as specified in Health and Safety Code section 1502.4.

(c) When a child has been accepted for nonemergency placement in a short-term residential therapeutic program, the following requirements shall be met prior to the child's placement in the facility:

(1) The information specified in Section 87070(b)(1) through (b)(~~14~~16) and California Code of Regulations, Title 22, Section 80070(b)(1) through (5), (7), (8) and (10), shall be obtained from the placement agency, if any, or from the child's authorized representative(s).

(A) If the information is not provided by a placement agency, the licensee shall make telephone and/or written requests for the information to the child's placement agency and/or authorized representative and shall record and retain the details of those requests.

(B) If the information is not received within 15 days of the requests specified in (A) above, the licensee shall obtain the information necessary to complete a standard appraisal form from other sources.

(C) When the information is received, social work staff shall complete a standard appraisal for the child on a form approved and/or furnished by the licensing agency.

(2) The needs and services plan shall be completed as specified in Section 87068.2.

(3) An admission agreement shall be completed and signed no later than seven (7) calendar days following admission as specified in California Code of Regulations, Title 22, Section 80068.

(4) The administrator or their designee, and the child and/or their authorized representative(s), shall sign copies of: the removal and/or transfer policies and procedures specified in Section 87068.4(a); of the discipline policies and procedures specified in Section 87072.1(a); and of the complaint procedures specified in Section 87072.2(a), to verify the receipt of such information.

(5) Information specified in California Code of Regulations, Title 22, Section 80070, and Section 87070 necessary to complete the child's file shall be obtained.

(6) Needs and services plan requirements specified in Section 87068.2 which were not addressed on the standard appraisal form, if used, shall be met.

(7) A copy of any court order authorizing psychotropic medications, if the child is currently taking psychotropic medication, shall be obtained.

(8) Satisfy authorization requirements specified in Section 87070(b)(~~13~~15) if the child is currently taking psychotropic medications.

(d) Prior to placement in, or immediately after admission to, a short-term residential therapeutic program, a child shall receive an initial crisis management assessment.

(1) The assessment shall include input from the child as well as someone the child requests to be present, such as a family member or social worker, and include the following:

(A) A child's advance directive regarding de-escalation or the use of seclusion or behavioral restraints.

(B) Identification of early warning signs, triggers, and precipitants that cause a child to escalate, and identification of the earliest precipitant of aggression for children with a known or suspected history of aggressiveness, or children who are currently aggressive.

(C) Techniques, methods, or tools that would help the child control their behavior.

(D) Preexisting medical conditions or any physical disabilities or limitations, including any assessed by a health care professional, that would place the child at greater risk during restraint or seclusion.

(E) Any trauma history, including any history of sexual or physical abuse that the child feels is relevant.

~~(2) The assessment shall include input from the child as well as someone the child requests to be present, such as a family member or social worker.~~

(2~~A~~) The component of the assessment that includes input from the child shall be conducted in a manner that is consistent with trauma-informed practices and the requirements of Section 87078.2.

(3) The assessment shall be used to inform the emergency interventions used on that specific child.

(e) If the child is placed in the facility under emergency circumstances, the licensee shall ensure that the following requirements are met:

(1) Placement of the child in the facility shall not result in the facility exceeding its licensed capacity.

(2) The admission agreement and other procedures specified in (c)(3) and (4) above shall be completed no later than seven days following the emergency placement.

(3) If it is determined, following emergency placement of the child in the facility, that the facility cannot continue to provide necessary services, applicable transfer procedures specified in Sections 87068.4(b), (c) and (e); and 87070(d) through (d)(3) shall be followed.

(4) If the child is continued in placement, the following requirements shall be met no later than 30 days following the emergency placement:

(A) Information specified in Sections 87070(b) and 87068.2 shall be obtained.

(B) The information specified in (A) above, and the needs and services plan specified in Section 87068.2, shall be reviewed by social work staff to determine whether the facility can continue to provide services necessary to meet the child's needs.

(C) The admission agreement shall be modified as specified in California Code of Regulations, Title 22, Section 80068(d), if necessary.

(f) If the licensee conducts orientation interviews as a part of the intake procedures, the licensee's policies and procedures must demonstrate and provide descriptions and details that the purpose of the orientation interview is to support the child's transition into placement.

(1) The orientation interview procedures must include practices, techniques, and supports that are trauma-informed, culturally relevant, and age and developmentally appropriate. This includes but is not limited to ensuring that the orientation interview is:

(A) Conducted by a clinician or staff member that is trained in trauma-informed care and interview practices.

(B) Conducted with a child's case worker or behavioral health services provider present.

(C) Structured to encourage a child to take part in discussions to learn about the facility, including but not limited to, providing a visual tour of the facility and a peer-to-peer interview with a current resident.

(2) If an in-person, oral interview is determined to not be clinically appropriate for the child, the licensee must provide an alternative consultation with the child's authorized representative, social worker, or probation officer and the child, where appropriate. The alternatives can include but are not limited to providing:

(A) A copy of written orientation interview questions to a child and their case worker to which the child can provide written response.

(B) A virtual meeting that provides the child with a virtual tour of the facility and enables a child to engage in a virtual peer-to-peer interview with a current resident, if appropriate.

NOTE: Authority cited: Section 1507.6, 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch.
732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1531, and 1562.01, Health and Safety Code.

87068.11 INTAKE PROCEDURES FOR NONMINOR DEPENDENTS.

(a) California Code of Regulations, Title 22, Section 80068 and Section 87068.1 do not apply to nonminor dependents. Except for subsections (b) and (d), California Code of Regulations, Title 22, Section 80069 shall apply to nonminor dependents.

(b) A licensed short-term residential therapeutic program, as defined in paragraph (18) of subdivision (a) of Section 1502, may only accept for placement a nonminor dependent who does not require inpatient care in a licensed health facility and who has been assessed pursuant to Section 11462.01 of the Welfare and Institutions Code as meeting the applicable criteria for placement in a short-term residential therapeutic program as specified in Health and Safety Code section 1502.4.

(c) A licensee shall develop, maintain, and implement intake procedures that meet the requirements specified in this section.

(d) Prior to the new placement of a nonminor dependent in the facility, the administrator or social work staff shall, jointly with the placement agency, prepare a Pre-Placement Appraisal for the nonminor dependent.

(1) The appraisal shall include:

(A) Confirmation that the nonminor dependent does not pose a threat to children in the facility.

(B) Confirmation that the licensee can meet the needs of the nonminor dependent.

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The Pre-Placement Appraisal may include the following additional information about a nonminor dependent:
(1) Overall health and health history, including any dietary limitations, currently prescribed medications, and major illnesses, accidents, hospitalizations, or surgeries.
(2) Physical and developmental disabilities.
(3) Mental health and mental conditions.
(4) Social factors, including likes, dislikes, interests, and activities.

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(e) Prior to, or within 30 calendar days of placement of a nonminor dependent, a licensee shall obtain a written medical assessment of the nonminor dependent, including ambulatory status, as specified in California Code of Regulations, Title 22, Section 80069.

(f) If a nonminor dependent is accepted for nonemergency placement in the facility, the administrator or social work staff shall obtain, request, and complete additional intake information and related documents about the nonminor dependent.

(1) The following intake information shall be obtained from the placement agency:

(A) Name, address, and telephone number of the nonminor dependent's:

1. Placement worker and placement agency.
2. Authorized representative, if any, and persons to be contacted in an emergency when the nonminor dependent's authorized representative cannot be contacted.
3. Physician and dentist, and other medical and mental health providers, if any.
4. Current employer, if applicable, with address of employment.

(B) Medical and dental insurance coverage information, including the agency or person responsible for medical and dental costs.

(C) Names of all persons who are prohibited by court order from contacting or visiting the nonminor dependent.

(2) The following intake information shall be requested from the placement agency:

(A) The Health and Education Passport.

1. The placing agency is required to provide the health and education summary within 48 hours of a subsequent placement.

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Welfare and Institutions Code section 16010(c) provides in part:

> "(c) As soon as possible, but not later than 30 days after initial placement of a child into foster care, the child protective agency shall provide the caregiver with the child's current health and education summary …. For each subsequent placement of a child or nonminor dependent, the child protective agency shall provide the caregiver with a current summary (health and education)…within 48 hours of the placement."

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(B) Any needs and services plan.

(C) The Transitional Independent Living Case Plan.

1. The licensee shall document in the nonminor dependent's needs and services plan when the case plan is received from the county placing agency.
2. If the case plan is not received from the county placing agency, the licensee shall document the attempts made to obtain the case plan in the nonminor dependent's needs and services plan.

(D) The Transitional Independent Living Plan.

(E) The assessment made by the qualified individual.

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Welfare and Institutions Code section 4096(g)(6) provides:

> "(g) (6) The qualified individual shall provide the assessment required by paragraph (3) and the report required by paragraph (4) to the county placing agency and the short-term residential therapeutic program, or, where applicable, the out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code, in which the child or nonminor dependent is or will be placed."

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(3) The following intake information shall be completed by the administrator or social work staff:

(A) The needs and services plan for the nonminor dependent, which shall be completed as specified in Section 87068.22.

(g) Upon acceptance of a nonminor dependent for nonemergency placement, the administrator or social work staff shall complete an admission agreement for the nonminor dependent.

(h) If a nonminor dependent is placed in the facility under emergency circumstances, a licensee shall ensure the following requirements are met:

(1) Placement of the nonminor dependent in the facility may not result in the facility exceeding its licensed capacity.

(2) No later than 30 days following the emergency placement, the administrator or social work staff shall:

(A) Obtain intake information about the nonminor dependent as specified in subsection (f)(1).

(B) Request intake information about the nonminor dependent as specified in subsection (f)(2).

(C) Complete the needs and services plan for the nonminor dependent as specified in subsection (f)(3).

(i) The administrator or social work staff shall review the information specified in subsection (h)(2) to determine whether the facility can continue to provide the services necessary to meet the needs of the nonminor dependent.

(j) No later than 7 days after emergency placement of a nonminor dependent, the administrator or social work staff shall complete an admission agreement for the nonminor dependent.

(k) The administrator or social work staff shall ensure that intake documents are signed as necessary.

(1) Prior to a nonemergency placement or no later than 7 days after an emergency placement, the admission agreement shall be signed and dated by a nonminor

dependent, the nonminor dependent's authorized representative if applicable, and the administrator or social work staff.

(A) Whenever circumstances covered in the admission agreement change, a licensee shall make modifications to the current agreement. Any modifications to the agreement shall be signed as specified in subsection (k)(1).

(2) The needs and services plan shall be signed as specified in Section 87068.22.

(3) The policies and procedures for removal or transfer from the facility shall be signed as specified in Section 87068.4.

(4) Expectations and consequences for living in the facility shall be signed as specified in Section 87072.11.

(5) The complaint procedures shall be signed as specified in Section 87072.2(a).

(l) The administrator or social work staff shall provide copies of these documents to a nonminor dependent:

(1) Admission agreement and any modifications to the admission agreement.

(2) Personal rights as specified in Section 87072.

(3) Expectations and consequences for living in the facility as specified in Section 87072.11.

(4) The needs and services plan as specified in Section 87068.22, the Transitional Independent Living Plan, and any modifications to these plans.

(5) Removal or transfer policies and procedures for the facility as specified in Section 87068.4.

(6) The complaint procedures as specified in Section 87072.2(a).

(m) If, at any time after a nonminor dependent is placed in the facility, the administrator or social work staff determine that the facility cannot continue to meet the needs of the nonminor dependent, the transfer procedures specified in Section 87068.4 apply.

(n) A licensee shall obtain and retain information and related documents in the records for a nonminor dependent as specified in Section 87070.1.

NOTE: Authority cited: Sections 1502.7, 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch.
732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1501.1, 1531, and 1562.01, Health and Safety Code. Sections 4096, and 16010 Welfare and Institutions Code.

87068.12 TERM LIMITS FOR CARE AND SUPERVISION IN SPECIALIZED SHORT-TERM RESIDENTIAL THERAPEUTIC PROGRAMS.

(a) Short-term residential therapeutic programs may provide care and supervision to children with special health care needs, who are placed by a county or by or through a regional center, provided that all of the following conditions are met:

(1) The child has not spent more than 120 calendar days in any residential care placement or combination of residential care placements while having special health care needs.

(A) The 120-day limitation may not be extended except with the written approval of the county child welfare department's director or their designee.

(2) The placement is on an emergency basis for the purpose of arranging a subsequent placement in a less restrictive setting, such as with the child's natural parents or relatives, with a foster parent or foster family agency, or with another appropriate person or facility.

(3) The child's placement worker has determined and documented that the program meets the specific needs of the child being placed and there is a commonality of needs with other children in the program.

(b) The licensee of a short-term residential therapeutic program shall not accept a child requiring in-home health care, other than incidental medical services pursuant to Section 1507 of the Health and Safety Code, unless the child is a child with special health care needs.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code; and Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 17732(c), (d), and (e) and 17736(a), Welfare and Institutions Code; and Sections 1507, and 1562.01, Health and Safety Code.

87068.2 NEEDS AND SERVICES PLAN.

(a) Social work staff shall obtain the information specified in Section 87070, and shall develop an individual needs and services plan, within 30 days of placement, for the child that meets the requirements specified in (b) through (e) below and includes the anticipated duration of the treatment, and the timeframe and plan for transitioning the child to a less restrictive family environment.

(1) A needs and services plan is not required for children who are placed in the facility on an emergency basis and who will remain in placement for less than seven days as documented in the child's record.

(2) Social work staff shall consider recommendations from members of the child and family team to help assess the child's goals, strengths and challenges for use in developing the needs and services plan.

(b) The needs and services plan shall be trauma-informed, culturally relevant, and age and developmentally appropriate and shall identify the child's needs in the following areas:

(1) Reason for placement.

(2) Education.

(A) If the information specified in Section 87070(b)(~~5~~6) is not available, the plan shall specify a method for determining the child's educational needs.

(3) Training, including financial literacy, and social, work, and other practical skills that may support transition-age children in achieving success in adulthood.

(4) Personal care, any special dietary needs or practices, and grooming.

(5) Ability to manage their own money, including the maximum amount of money the child shall be permitted to have in their possession at any one time.

(6) Visitation, including the frequency of and any other limitations on visits to the family residence and other visits inside and outside the facility consistent with the child's personal rights as specified in Section 87072.

(A) Visitation shall not be canceled or used as a form of punishment if a child is not following their program guidelines.

(7) Other specific services, including necessary services to the child's parent(s) or guardian(s).

(8) Crisis management plan, including any known limitations on the use of emergency interventions, and behavioral interventions.

(9) Extracurricular, enrichment, and social activities.

(c) The needs and services plan shall include a description of the services to be provided or arranged to meet the short- and long-term needs and goals of the child as assessed by the qualified individual, pursuant to Sections 4096 and 11462.01 of the Welfare and Institutions Code. The needs and services plan shall also include the following information regarding services necessary to meet the child's needs, consistent with the case plan prepared by the placing agency, if provided, and consistent with the qualified individual's assessment:

(1) Types of services necessary, including the core services specified in 87078.1, supports, physical and mental health, substance abuse services, permanency and transition services.

(2) The facility's ability to provide the necessary services based upon the following information provided in the plan of operation:

(A) The facility's purposes, program methods, and goals.

(B) The facility's admission policies and procedures.

(C) Services to be provided by the facility in cooperation with community resources.

(3) Anticipated duration of treatment and placement, including the transfer plan specified in Section 87068.4(b).

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Welfare and Institutions Code subdivision (g) of Section 4096 in part provides:

"(g)(2) (A) Unless the placement is an emergency placement pursuant to paragraph (3) of subdivision (h) of Section 11462.01, the qualified individual

shall conduct an independent assessment and determination regarding the needs of the child prior to placement in a short-term ~~residential~~ therapeutic residential program, in a community treatment facility, or in an out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code. In the event of an emergency placement, the qualified individual shall conduct the independent assessment and determination regarding the needs of the child within 30 days of the start of the placement.

(B) In connection with the activities required by the qualified individual, placing agencies shall adopt, and all parties to the child's case shall utilize, the universal release of information identified by the State Department of Social Services and the State Department of Health Care Services.

(3) The assessment conducted by the qualified individual shall include, at a minimum, all of the following:

(A) Engagement with the child and family team members and, in the case of an Indian child, the Indian child's tribe, in conducting the assessment.

(B) An assessment of the strengths and needs of the child or nonminor dependent, using an age-appropriate, evidence-based, validated, functional assessment tool and methodology approved by the State Department of Social Services and the State Department of Health Care Services. If the authorized assessment tool has already been completed as part of the child and family team within two months of referral to a qualified individual, the qualified individual may utilize or update those results at the discretion of the qualified individual. If the assessment tool was completed more than two months before the referral to a qualified individual, the qualified individual shall update those results.

(C) The identification of the child-specific short- and long-term mental and behavioral health goals and treatment needs of the child.

(D) In the case of an Indian child, the qualified individual's efforts to consult with the child's tribe. The qualified individual shall consult and confer with a representative of the child's tribe or, at the direction of the tribal representative, the qualified expert witness, as described in Section 224.6. Such consultation shall include, but not be limited to, determination of the social and cultural standards of the Indian child's tribe."

(4) The qualified individual shall determine and document the following in writing:

(A) Whether the assessed needs of the child or nonminor dependent can be met with family members, in a tribally approved home in the case of an Indian child, or in another family-based setting.

(B) If the child or nonminor dependent's needs cannot be met with family members, in a tribally approved home in the case of an Indian child, or in another family-based setting, all of the following:

(i) Why the needs of the child cannot be met with family members of the child or in another family-based setting identified by the placing agency, or in a tribally approved home in the case of an Indian child.
(ii) Why a short-term residential therapeutic program, or, where applicable, a community treatment facility, as defined in paragraph (8) of subdivision (a) of Section 1502 of the Health and Safety Code, or an out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code, is the setting that will provide the child with the most effective and appropriate level of care in the least restrictive environment.
(iii) How a short-term residential therapeutic program intervention, or where applicable, the program intervention of a community treatment facility or an out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code, is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child, and for an Indian child, will meet the child's needs consistent with the prevailing social and cultural conditions and way of life of the Indian child's tribe.
(iv) The mental and behavioral health interventions and treatment that the program will implement to improve functioning and well-being and, for an Indian child, how the interventions and treatment will be conducted in a manner consistent with the prevailing social and cultural conditions and way of life of the Indian child's tribe.
(v) Any known multiagency care coordination needs that should be planned for during discharge and aftercare planning, as developed pursuant to Section 4096.6, upon the child's transition to a family-based setting…

(6) The qualified individual shall provide the assessment required by paragraph (3) and the report required by paragraph (4) to the county placing agency and the short-term residential therapeutic program, or, where applicable, the community treatment facility, as defined in paragraph (8) of subdivision (a) of Section 1502 of the Health and Safety Code, or the out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code, in which the child or nonminor dependent is or will be placed."

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(d) The licensee shall ensure and document how the child, and their authorized representative(s), and the child and family team collaborated in the development of the needs and services plan, including in determining the date and location of the meeting.

(e) The licensee shall document in the child's needs and services plan discussions with the child regarding placement in the facility, needs and expectations while in placement, as

well as any transitions to home-based care or a less restrictive family environment as provided in Section 87022.1(b)(8)(C). These discussions must be age and developmentally appropriate and documented on a monthly basis consistent with Section 87068.3(a).

(f) The licensee shall document in the child's needs and services plan how family members are integrated into the treatment process for the child, including postdischarge, and how sibling connections are maintained to the extent clinically appropriate, consistent with any applicable court orders, and in accordance with the child's best interest as specified in Section 87022.1(b)(13)(A). The child shall be consulted regarding the preferred family members they would like to interact with per Section 87022.1(b)(13)(A)2.(i). This documentation shall also be maintained in the child's record, as specified in Section 87070.

(g) The licensee shall obtain written approval from the child, if age and developmentally appropriate, and the child's authorized representative prior to implementing the child's needs and services plan.

(h) Unless restricted by the case plan adopted by the court or other court order, the licensee shall permit and facilitate connections between the child and the child's family and non-relative extended family members. Nothing in this section shall be interpreted to require a foster care provider to take any action that would impair the health and safety of children in out-of-home placement.

(i) (1) The licensee shall document in the child's needs and services plan when the case plan is received from the county placing agency.

(2) If the case plan is not received from the county placing agency, the licensee shall document the attempts made to obtain the case plan in the child's needs and services plan.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Chapter 86, Section 57. Reference: Sections 1501, 1531, and 1562.01, Health and Safety Code; and Sections 366.1, 366.21, 11462.01, and 16001.9, Welfare and Institutions Code.

87068.22 NEEDS AND SERVICES PLAN FOR NONMINOR DEPENDENTS.

(a) (1) This section only applies to nonminor dependents.

(2) California Code of Regulations, Title 22, Section 80068.2 does not apply to nonminor dependents.

(3) Except as specified in this section, Section 87068.2 does not apply to nonminor dependents.

(b) The administrator or social work staff shall complete a needs and services plan for a nonminor dependent that is consistent with the Transitional Independent Living Plan of the nonminor dependent and with the recommendations in the qualified individual's assessment.

(1) A nonminor dependent shall be permitted to participate in the development of the needs and services plan.

(2) The licensee shall ensure and document that the child and family team were offered the opportunity to participate in the development of the needs and services plan.

(3) The needs and services plan shall be completed within 30 calendar days of the date a nonminor dependent is placed in the facility.

(c) The needs and services plan shall be trauma-informed, culturally relevant, and age and developmentally appropriate, and include a description of the services to be provided or arranged to meet the short- and long-term needs and goals of the nonminor dependent as assessed by the qualified individual, pursuant to Sections 4096 and 11462.01 of the Welfare and Institutions Code. The needs and services plan shall also include the following information, consistent with the transitional independent living case plan prepared by the placing agency, if provided, and consistent with the qualified individual's assessment:

(1) The information specified in Section 87068.2(b)(1) through (b)(9) and (c).

(2) Transfer plan for the nonminor dependent as specified in Section 87068.4.

(3) How the facility meets the special needs or well-being of the nonminor dependent.

(4) How the facility will assist the nonminor dependent in their transition to independent

living; including meeting the goals of the 90-day transition plan when applicable.

(5) Facilitate participation of family members in the nonminor dependent's treatment program if the nonminor dependent consents, including but not limited to the needs and services plan, the transition plan, and plan for aftercare services.

(6) The treatment strategies that will be used to prepare the nonminor dependent for transfer to a less restrictive and more family-like setting, including the anticipated duration of the treatment, timeframe and plan for transitioning the nonminor dependent to a less restrictive setting, and a target date for transfer from the facility.

(7) For a nonminor dependent who is under age 19, whether the nonminor dependent must remain in the facility to complete high school.

(8) For a nonminor dependent who has not reached 21 years of age and who is incapable of participating in educational or employment activities as specified in subdivision (b) of Welfare and Institutions Code Section 11403, the needs and services plan must contain documentation that the nonminor dependent has a medical condition that prevents such participation and permits continuation in the facility, and confirmation that continuation in the facility functions as a short-term transition to the appropriate system of care.

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Welfare and Institutions Code section 11403(b) provides in part:

> "(b) A nonminor dependent receiving aid pursuant to this chapter, who satisfies the age criteria set forth in subdivision (a), shall meet the legal authority for placement and care by being under a foster care placement order by the juvenile court, or the voluntary reentry agreement as set forth in subdivision (z) of Section 11400, and is otherwise eligible for AFDC-FC payments pursuant Section 11401. A nonminor who satisfies the age criteria set forth in subdivision (a), and who is otherwise eligible, shall continue to receive CalWORKs payments pursuant to Section 11253, Approved Relative Caregiver Funding Program benefits pursuant to Section 11461.3, or, as a nonminor former dependent or ward, aid pursuant to Kin-GAP

under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) or adoption assistance payments, as specified in Chapter 2.1 (commencing with Section 16115) of Part 4. A nonminor former dependent child or ward of the juvenile court who is receiving AFDC-FC benefits pursuant to Section 11405 and who satisfies the criteria set forth in subdivision (a) is eligible to continue to receive aid as long as the nonminor is otherwise eligible for AFDC-FC benefits under this subdivision. This subdivision applies when one or more of the following conditions exist:
(1) The nonminor is completing secondary education or a program leading to an equivalent credential.
(2) The nonminor is enrolled in an institution which provides postsecondary or vocational education.
(3) The nonminor is participating in a program or activity designed to promote, or remove barriers to employment.
(4) The nonminor is employed for at least 80 hours per month.
(5) The nonminor is incapable of doing any of the activities described in subparagraphs (1) to (4), inclusive, due to a medical condition, and that incapability is supported by regularly updated information in the case plan of the nonminor…"

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(d) The needs and services plan shall be signed by the nonminor dependent, the placement agency, and the administrator or social work staff within 30 calendar days of placement of the nonminor dependent in the facility.

(1) Any modifications to the plan, as specified in Section 87068.3, shall also be signed by the nonminor dependent, the placement agency, and the administrator or social work staff.

(2) A copy of the needs and services plan shall be provided to the nonminor dependent as specified in Section 87068.11.

(e) A plan to have discussions with the nonminor dependent regarding placement in the facility, needs and expectations while in placement, as well as any transitions to home-based care or to a less restrictive family environment. Discussions must be age and developmentally appropriate and documented in the nonminor dependent's needs and services plan as provided in subsection (c).

(f) The needs and services plan shall be updated every 30 calendar days.

(g) The original signed needs and services plan shall be maintained in the records for the nonminor dependent as specified in Section 87070.1.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1501.1, 1530, 1531, and 1562.01, Health and Safety Code; and Sections 11403, 16001.9 and 16501.1, Welfare and Institutions Code.

87068.3 MODIFICATIONS TO THE NEEDS AND SERVICES PLAN.

(a) The needs and services plan, as described in Sections 87068.2 and 87068.22, shall be updated at least every 30 days to determine the following:

(1) The child's need for continuing services.

(2) The facility's recommendation regarding the feasibility of the child's return to their home, placement in a less restrictive family-like setting consistent with the facility's program statement as specified in Section 1562.01(d)(2)(C)(iii) of the Health and Safety Code, or move to independent living.

(3) The need for modification in services.

(4) The progress of the child toward their transfer goal.

(b) The licensee shall ensure that the child and their authorized representative(s) are offered the opportunity to participate in such modifications.

(1) The licensee shall not implement any plan modifications unless prior written approval of such modifications has been obtained from the child's authorized representative(s).

(2) The licensee shall consider the recommendations of the child and family team while implementing modifications to the needs and services plan.

(c) In order to determine the need to modify the child's needs and services plan, the licensee shall conduct an analysis of each incident reported pursuant to Section 87061 and California Code of Regulations, Title 22, Section 80061 which occurred in the thirty (30) days preceding the review of the needs and services plan.

(1) The analysis shall consist of the following:

(A) If there were multiple incidents:

1. Identify if the incidents involved the same situation.

2. If there were different situations, identify each different situation.

3. Identify whether the incidents involve the same facility personnel or different facility personnel.

4. Identify whether the same or different interventions were used by the facility.
5. Identify whether it was the same or different resolution.
6. Identify whether one or more interventions were more successful than the others if multiple interventions were used.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1531, and 1562.01 Health and Safety Code.

87068.4 REMOVAL AND/OR TRANSFER PROCEDURES.

(a) The licensee shall develop, maintain and implement written policies and procedures governing a child's removal and/or transfer from the facility. The policies and procedures shall include a description of how the licensee will mitigate against potential impacts to a child as a result of removal or transfer, including but not limited to how licensee will assist in preventing delays or gaps in delivery of services, types of trauma-informed support and transition services to be provided, and best practices for staff communication with the child during the transition.

(1) Children and their authorized representative(s) shall receive copies of such policies and procedures and an explanation of such policies and procedures in an age and developmentally appropriate manner.

(2) Signed copies of such policies and procedures shall be maintained in the child's record, as specified in Section 87070(c)(2).

(b) The licensee shall ensure that the child, and their authorized representative(s) are offered the opportunity to participate in the development of a transfer plan for the child.

(1) The licensee shall not transfer a child unless prior written approval of the transfer has been obtained from the child's authorized representative(s).

(c) (1) The short-term residential therapeutic program shall provide trauma-informed support and transition services to children as part of a planned or unplanned removal or transfer, as specified in Subdivision (l) of Section 1562.01 of the Health and Safety Code.

(2) The support and transition services shall include participation in any county-level or state-level meetings pursuant to Section 16521.6 of the Welfare and Institutions Code with the goal of placement preservation whenever possible or, if necessary, identifying and working with alternative short-term residential therapeutic programs or other providers to directly transition the child.

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Health and Safety Code subdivision 1562.01(l) provides:

> "(l) A short-term residential therapeutic program shall provide trauma-informed support and transition services to foster youth as part of a planned or unplanned discharge. This shall include participation in any county-level or state-level meetings pursuant to Section 16521.6 of the Welfare and Institutions Code with the goal of placement preservation whenever possible or, if necessary, identifying and working with alternative short-term residential therapeutic programs or other providers to directly transition the youth."

Welfare and Institutions Code section 16521.6 provides in part:

> "(b)(2)(A) No later than January 1, 2020, the joint interagency resolution team, in consultation with county agencies, service providers, and advocates for children and resource families, shall review the placement and service options available to county child welfare agencies and county probation departments for children and youth in foster care who have experienced severe trauma and shall develop and submit recommendations to the Legislature addressing any identified gaps in placement types or availability, needed services to resource families, or other identified issues. The joint interagency resolution team shall update its review and provide recommendations to the Legislature no later than December 31, 2022, that take into account the specific needs and characteristics of youth with unplanned discharges from short-term residential therapeutic programs and youth for whom counties were unable to, or have difficulty with, securing placements and providing trauma-informed services, which may include, but is not limited to, as applicable, youth impacted by commercial sexual exploitation, youth with acute behavioral needs, and youth with intellectual or developmental disabilities. The recommendations shall also articulate a statewide plan for any additional development needed for a trauma-informed, therapeutic continuum of care to support youth in-state in the least restrictive setting."
>
> "(3) No later than June 1, 2020, the joint interagency resolution team, in consultation with county agencies, service providers, behavioral health professionals, schools of social work, and advocates for children and resource families, shall develop a multiyear plan for increasing the capacity and delivery of trauma-informed care to children and youth in foster care served by short-term residential therapeutic programs and other foster care and behavioral health providers."

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(d) (1) The licensee shall engage with the county placing agency in placement preservation strategies, as specified in subdivision (p) of Section 1562.01 of the Health and Safety Code.

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Health and Safety Code subdivision 1562.01(p) provides:

> "(p) The short-term residential therapeutic program shall engage with the county placing agency in placement preservation strategies pursuant to Section 16010.7 of the Welfare and Institutions Code, as applicable. Nothing in this subdivision shall be interpreted to supersede the placement and care responsibility vested in the county placing agency or their responsibilities under Section 16010.7 of the Welfare and Institution Code."

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(2) The licensee shall engage with the county placing agency regarding the placement preservation strategy prior to a change in placement.

(A) The engagement may include, but is not limited to, conflict resolution practices and facilitated meetings.

(3) Nothing in Section 87068.4(d) shall be interpreted to supersede the placement and care responsibility vested in the county placing agency or their responsibilities under Section 16010.1 of the Welfare and Institutions Code.

(e) (1) Upon a concern that the facility cannot meet the needs of the child or when there is an indication that the placement may be disrupted, the licensee shall:

(A) Notify the authorized representative(s) of the concern.

(B) Communicate the concern in writing to the county placing agency, including identifying the specific needs of the child that the facility is not able to meet.

(C) Request additional support services from the community if necessary.

(D) Request a Child and Family Team meeting.

(E) Make a reasonable and good faith effort to engage in the development and implementation of placement preservation strategies in collaboration with the county placing agency and in consultation with the Child and Family Team.

(F) Upon request by either the Department or the licensee, participate in technical assistance from the Department at a time jointly agreed upon by the licensee and the Department.

(2) If it is determined that the facility cannot meet the needs of the child the licensee shall notify the authorized representative(s) of the determination and request that the child be placed elsewhere.

(A) Requests shall be submitted to the county placing agency and shall contain the following information:

1. Legal name, preferred name if different from legal name, and preferred gender pronouns.
2. Date the authorized representative was informed of the concern pursuant to Section 87068.4(e)(1)(A).
3. Date the county placing agency was informed of the concern pursuant to Section 87068.4 (e)(1)(B).
4. Date of request for additional support services and types of services received pursuant to Section 87068.4 (e)(1)(C).
5. Date of request for Child and Family Team meeting and date the Child and Family Team meeting was held pursuant to Section 87068.4 (e)(1)(D).
6. Efforts undertaken by the licensee to engage in placement preservation strategies pursuant to Section 87068.4(e)(1)(E).

(B) Requests shall be accompanied by a statement, signed by the facility's Mental Health Head of Service, providing an explanation of why the facility

was unable to meet the needs of the child, including the following information:

1. A description of what specialty mental health services, trauma-informed interventions and treatment practices, and any other services or supports that were provided to the child.
2. A description of which of these services were successful, which were unsuccessful, and why.
3. A description of any Placement Preservation Strategies that were developed by the social worker or placing agency for the child, pursuant to Welfare and Institutions Code Section 16010.7(b).
4. If applicable, an explanation of why the Placement Preservation Strategies did not resolve the facility's concern that they are unable to meet the needs of the child.

(C) If the licensee is operating under a provisional license, and does not yet have a Mental Health Head of Service, then this statement may instead be signed by another qualified representative of the licensee.

(D) Requests for placement change shall not be initiated prior to the first update of the child's needs and services plan.

(E) The facility shall notify the child of the transfer or removal in a manner that is consistent with trauma-informed practices.

1. The facility shall work with the child to develop a trauma-informed plan to support a successful transition to the child's next placement.

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Welfare and Institutions Code Section 16010.7 provides:

> (a) It is the intent of the Legislature to prevent children or youth in foster care placement from experiencing unnecessary or abrupt placement changes that negatively impact their well-being or sense of security. It is the intent of the Legislature to preserve and

strengthen the placement of a child or youth whenever possible. It is also the intent of the Legislature to ensure that placement changes do not occur due to gender, gender identity, race, or cultural differences. The Legislature finds and declares that unnecessary or abrupt placement changes undermine the essential duties that resource families have an obligation to uphold. It is the intent of the Legislature that prior to a caregiver or provider requesting a child or youth to be removed from the caregiver's or provider's care, the caregiver or provider shall participate in a placement preservation strategy meeting.

(b) Prior to making a change in the placement of a child or youth, a social worker or probation officer shall develop with the caregiver a placement preservation strategy, which shall be done in consultation with the child and family team pursuant to clause (ii) of subparagraph (A) of paragraph (4) of subdivision (a) of Section 16501, to preserve the child's or youth's foster care placement. The strategy may include, but is not limited to, conflict resolution practices and facilitated meetings, and shall include a referral by the social worker or probation officer to the qualified individual for an assessment, as described in subdivision (g) of Section 4096, if the next placement is anticipated to be in a short-term residential therapeutic program or in an out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code.

(c) A social worker or probation officer shall include the strategy developed and implemented pursuant to subdivision (b) within the child's contact notes or equivalent in the statewide child welfare information system.

(d) For purposes of this subdivision, the following definitions shall apply:

(1) "Child and family team" has the same meaning as defined in Section 16501.

(2) "Conflict resolution practices" means a process designed to begin a dialogue to address conflict or concerns and identify agreements or solutions, which may be incorporated as part of a meeting of a child and family team.

(3) "Facilitated meeting" means a facilitated process designed to acknowledge, address, and respond to the underlying needs of all parties, that may include, but is not limited to, a meeting of a child and family team.

(4) "Representative for a child under 10 years of age" means the attorney or another individual as authorized by the child's attorney.

(e) If, after implementing the placement preservation strategy developed and implemented pursuant to subdivision (b), the social worker or probation officer

receives a placement change request from the caregiver or provider, or otherwise finds that a foster care placement change is necessary, the social worker, probation officer, or placing agency shall serve written notice on all of the following parties at least 14 calendar days prior to the change:

(1) The child's parent or guardian.

(2) The child's caregiver.

(3) The child's attorney.

(4) The child, if the child is 10 years of age or older.

(f) An unplanned foster care placement change shall not take place between 9 p.m. and 7 a.m., except by the mutual agreement of all of the following persons:

(1) The child, if the child is 10 years of age or older, or the representative of the child, if the child is under 10 years of age.

(2) The child's current caregiver.

(3) The child's prospective caregiver.

(4) The child's social worker or probation officer.

(g) If a complaint is made to the Office of the State Foster Care Ombudsperson alleging that a placement change occurred in violation of this section, and that complaint is investigated pursuant to Section 16164, the office shall provide the findings of the investigation to, as applicable, the county child welfare director, or the director's designee, or to the chief probation officer, or to the chief probation officer's designee, for the purposes of training, technical assistance, and quality improvement.

(h) Notwithstanding subdivisions (b) and (e), a social worker or probation officer may change a child's foster care placement without fulfilling the requirements of subdivisions (b) and (e) in either of the following circumstances:

(1) If it is determined that remaining in the existing foster care placement or providing prior written notice of that foster care placement change poses an imminent risk to the health or safety of the child, youth, other children, or others in the home or facility.

(2) If either the child and family team and the child, if the child is 10 years of age or older, or the child and family team and the representative of that child, if the child is less than 10 years of age, unanimously agree to waive the requirements described in subdivisions (b) and (e).

(i) This section applies to children and youth for whom the juvenile court has entered a judgment pursuant to Section 360 or 727. This section does not apply to a change in placement pursuant to Section 777 or due to a hospitalization.

(j) This section does not apply to a nonminor dependent, as defined in subdivision (v) of Section 11400, who is placed in a Transitional Housing Placement program for nonminor dependents, as defined in subparagraph (B) of paragraph (2) of subdivision (a) of Section 1559.110 of the Health and Safety Code, or a supervised independent living placement, as defined in subdivision (w) of Section 11400.

(k) This section does not apply to a planned placement change as informed by the child and family team or that is described in the child's case plan.

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(f) Social work staff shall develop and maintain a written removal or transfer record containing the information specified in Sections 87070(d) through (d)(3).

(g) In addition to the above provisions the following shall apply to nonminor dependents. If a nonminor dependent transfers from the facility for other reasons, a licensee shall:

(1) Provide written notice to the nonminor dependent that they will transfer from the facility. The written notice shall:

(A) State the reason for the transfer of the nonminor dependent, including specific facts about any circumstance or event that resulted in the pending transfer of the nonminor dependent.

(B) Request that the nonminor dependent be placed elsewhere.

(2) Provide a copy of the written notice via e-mail, fax, or overnight mail to the placement agency on the same day the notice is provided.

(h) At least once a month for the six month period prior to a nonminor dependent's removal

and/or transfer, the licensee shall meet with the county placing agency, the nonminor dependent, and other stakeholders such as the Department of Health Care Services, as needed, to develop a removal and/or transfer plan for the nonminor dependent.

(1) The monthly meetings shall begin:

(A) For a nonminor dependent who has not reached 19 years of age, six months before the nonminor dependent is scheduled to complete high school or the nonminor dependent will reach age 19, whichever is earlier.

(B) For a nonminor dependent who has not reached 21 years of age as specified in subdivision (a) of the Welfare and Institutions Code 11403 and who is incapable of participating in educational or employment activities as specified in subdivision (b) of Welfare and Institutions Code section 11403 due to a documented medical condition, six months before the nonminor dependent's medical condition is expected to alleviate enough to allow the nonminor dependent to participate in education or employment activities, or six months before the nonminor dependent reaches age 21 if the medical conditions is not alleviated, whichever is earlier.

(2) Documentation of the monthly meetings shall be maintained in the nonminor dependent's records.

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Welfare and Institutions Code section 11403, subdivision (a)-(b) in part provides:

> "(a) It is the intent of the Legislature to exercise the option afforded states under Section 475(8) (42 U.S.C. Sec. 675(8)), and Section 473(a)(4) (42 U.S.C. Sec. 673(a)(4)) of the federal Social Security Act, as contained in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351), to receive federal financial participation for nonminor dependents of the juvenile court who satisfy the conditions of subdivision (b), consistent with their transitional independent living case plan. Nonminor dependents are eligible to receive support until they reach 21 years of age, consistent with their transitional independent living case plan and as described in Section 10103.5. It is the intent of the Legislature, both at the time of initial determination of the nonminor

dependent's eligibility and throughout the time the nonminor dependent is eligible for aid pursuant to this section, that the social worker or probation officer or Indian tribal placing entity and the nonminor dependent shall work together to ensure the nonminor dependent's ongoing eligibility. All case planning shall be a collaborative effort between the nonminor dependent and the social worker, probation officer, or Indian tribe, with the nonminor dependent assuming increasing levels of responsibility and independence.
(b) A nonminor dependent receiving aid pursuant to this chapter, who satisfies the age criteria set forth in subdivision (a), shall meet the legal authority for placement and care by being under a foster care placement order by the juvenile court, or the voluntary reentry agreement as set forth in subdivision (z) of Section 11400, and is otherwise eligible for AFDC-FC payments pursuant to Section 11401. A nonminor who satisfies the age criteria set forth in subdivision (a), and who is otherwise eligible, shall continue to receive CalWORKs payments pursuant to Section 11253, Approved Relative Caregiver Funding Program benefits pursuant to Section 11461.3, or, as a nonminor former dependent or ward, aid pursuant to Kin-GAP under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) or adoption assistance payments, as specified in Chapter 2.1 (commencing with Section 16115) of Part 4. A nonminor former dependent child or ward of the juvenile court who is receiving AFDC-FC benefits pursuant to Section 11405 and who satisfies the criteria set forth in subdivision (a) is eligible to continue to receive aid as long as the nonminor is otherwise eligible for AFDC-FC benefits under this subdivision. This subdivision applies when one or more of the following conditions exist:
(1) The nonminor is completing secondary education or a program leading to an equivalent credential.
(2) The nonminor is enrolled in an institution that provides postsecondary or vocational education.
(3) The nonminor is participating in a program or activity designed to promote, or remove barriers to employment.
(4)The nonminor is employed for at least 80 hours per month.
(5) The nonminor is incapable of doing any of the activities described in paragraphs (1) to (4), inclusive, due to a medical condition, and that incapability is supported by regularly updated information in the case plan of the nonminor. The requirement to update the case plan under this section does not apply to nonminor former dependents or wards in receipt of Kin-GAP program or Adoption Assistance Program payments."

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(i) When a nonminor dependent transfers from a facility, the licensee shall distribute the nonminor dependent's records as specified in Section 87070.1.

(j) Nothing in this section is intended to prevent the child or nonminor dependent's removal from the facility under emergency circumstances by an authorized person or agency.

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Examples of emergency circumstances include, but are not limited to: removal by law enforcement officers when a child is arrested; when removal is necessary because the health and safety of the child or any other children in the facility is endangered by the child's continued presence in the facility; removal for emergency medical or psychiatric care; or relocation by the child's authorized representative(s).

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NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1501.1, 1531, and 1562.01, Health and Safety Code.

87069.1 IMMUNIZATIONS.

(a) A child for whom vaccination against the following diseases cannot be verified shall receive the first doses of the appropriate vaccines within 30 calendar days of placement in the facility and shall receive follow-up doses as recommended by the physician who administered the first doses.

(1) Poliomyelitis.

(1) Diphtheria.

(1) Pertussis, i.e., whooping cough.

(1) Tetanus.

(1) Measles.

(1) Rubella, i.e., German measles.

(1) Mumps.

(b) Notes from parents, guardians, etc., are not acceptable documentation.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1507, 1531, and 1562.01, Health and Safety Code.

87069.2 INDIVIDUALIZED HEALTH CARE PLANS FOR SPECIALIZED SHORT- TERM RESIDENTIAL THERAPEUTIC PROGRAMS.

(a) The licensee shall not accept any child with special health care needs unless the licensee has obtained an individualized health care plan for the child. The plan shall include the following information:

(1) The name, address, and phone number of the health care professional responsible for monitoring the child's ongoing health care.

(2) The appropriate number of hours of on-site supervision and monitoring, and the appropriate number of hours of off-site supervision and monitoring, needed to be provided by the monitor designated in Section 87069.2(a)(1).

(3) Documentation by the child's individualized health care plan team identifying the specialized in-home health care to be administered by one or more health care professionals.

(4) Specific responsibilities of the health care professional(s) for the provision of specialized in-home health care.

(5) Identification of any available and funded medical services that are to be provided to the child in the home including the name, address and telephone number of each health care professional or agency that is to provide medical services to the child in the home.

(6) Arrangements for in-home health support services if required.

(7) Identification of any psychological, emotional, behavioral, or medical problems that will be identified in the child's needs and services plan or the medical assessment specified in California Code of Regulations, Title 22, Section 80069.

(b) The individualized health care plan for each child with special health care needs shall be updated at least every six months or sooner if the needs of the child or nonminor dependent change.

(c) For any child with special health care needs the hospital discharge plan may be adopted by the individualized health care plan team as the child's individualized health care plan.

(d) The individualized health care plan may be combined with the child's needs and services plan or regional center individual program plan provided that all the information required by each plan is included.

NOTE: Authority Cited: Section 17730, Welfare and Institutions Code; and Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 17731(c) and 17710(h), Welfare and Institutions Code; Section 1562.01, Health and Safety Code.

87070 CHILDREN'S RECORDS.

(a) In addition to California Code of Regulations, Title 22, Section 80070, the following shall apply.

(b) The following information regarding the child shall be obtained and maintained in the child's record:

(1) The child's preferred pronouns.

(2) The name, address, and telephone number of all adults with whom the child was living immediately prior to the current placement.

(3) The name, address, and telephone number of the child's parent(s) or legal guardian, biological family members of the child, including siblings, and nonrelative extended family members, if known.

(4) The name, address, and telephone number of the placement worker and placement agency.

(5) The name, address, and telephone number of the child's attorney, if applicable.

~~(5)~~(6) Educational records, if available, describing the child's present academic level, including their grade or performance level, and any previous school-related problems.

~~(6)~~(7) Dental and medical history, if available, including immunization records and physician's orders for any medically necessary diet as specified in California Code of Regulations, Title 22, Section 80076(a)(6).

~~(7)~~(8) The child's court status, if applicable, including a copy of any custody orders and agreements with parent(s) or person(s) having legal custody.

~~(8)~~(9) The placement agency's list of persons who should or should not be allowed to visit.

~~(9)~~(10) The interagency placement committee's written determination and the qualified individual's assessment of the child, required to be completed and provided to the short-term residential therapeutic program pursuant to subdivisions (f) and (g) of Section 4096 of the Welfare and Institutions Code.

(A) Pursuant to paragraph (1) of subdivision (h) of Section 11462.01 of the Welfare and Institutions Code, the short-term residential therapeutic program shall inform the department if the county placing agency does not provide the written determination and/or the assessment.

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Welfare and Institutions Code section 4096, subdivision (f) provides:

> "(f) The interagency placement committee shall document the results of the determination required by subdivision (e) and shall notify the appropriate provider in writing, of those results within 10 days of the completion of the determination."

Welfare and Institutions Code section 4096, subdivision (g) provides:

> "(g) (1) For a placement in a short-term residential therapeutic program, a community treatment facility, as defined in paragraph (8) of subdivision (a) of Section 1502 of the Health and Safety Code, or in an out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code, made on or after October 1, 2021, a qualified individual, as defined pursuant to subdivision (l) of Section 16501, shall conduct an assessment pursuant to this subdivision if the child is placed by a county child welfare or probation placing agency.
> (2) (A) Unless the placement is an emergency placement pursuant to paragraph (3) of subdivision (h) of Section 11462.01, the qualified individual shall conduct an independent assessment and determination regarding the needs of the child prior to placement in a short-term residential therapeutic program, in a community treatment facility, or in an out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code. In the event of an emergency placement, the qualified individual shall conduct the independent assessment and determination regarding the needs of the child within 30 days of the start of the placement.
> (B) In connection with the activities required by the qualified individual, placing agencies shall adopt, and all parties to the child's case shall utilize, the universal release of information identified by the State Department of Social Services and the State Department of Health Care Services.
> (3) The assessment conducted by the qualified individual shall include, at a minimum, all of the following:

(A) Engagement with the child and family team members and, in the case of an Indian child, the Indian child's tribe, in conducting the assessment.

(B) An assessment of the strengths and needs of the child or nonminor dependent, using an age-appropriate, evidence-based, validated, functional assessment tool and methodology approved by the State Department of Social Services and the State Department of Health Care Services. If the authorized assessment tool has already been completed as part of the child and family team within two months of referral to a qualified individual, the qualified individual may utilize or update those results at the discretion of the qualified individual. If the assessment tool was completed more than two months before the referral to a qualified individual, the qualified individual shall update those results.

(C) The identification of the child-specific short- and long-term mental and behavioral health goals and treatment needs of the child.

(D) In the case of an Indian child, the qualified individual's efforts to consult with the child's tribe. The qualified individual shall consult and confer with a representative of the child's tribe or, at the direction of the tribal representative, the qualified expert witness, as described in Section 224.6. Such consultation shall include, but not be limited to, determination of the social and cultural standards of the Indian child's tribe.

(4) The qualified individual shall determine and document the following in writing:

(A) Whether the assessed needs of the child or nonminor dependent can be met with family members, in a tribally approved home in the case of an Indian child, or in another family-based setting.

(B) If the child or nonminor dependent's needs cannot be met with family members, in a tribally approved home in the case of an Indian child, or in another family-based setting, all of the following:

(i) Why the needs of the child cannot be met with family members of the child or in another family-based setting identified by the placing agency, or in a tribally approved home in the case of an Indian child.

(ii) Why a short-term residential therapeutic program, or, where applicable, a community treatment facility, as defined in paragraph (8) of subdivision (a) of Section 1502 of the Health and Safety Code, or an out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code, is the setting that will provide the child with the most effective and appropriate level of care in the least restrictive environment.

(iii) How a short-term residential therapeutic program intervention, or where applicable, the program intervention of a community treatment facility or an out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code, is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child, and for an Indian child, will meet the child's needs consistent with the prevailing social and cultural conditions and way of life of the Indian child's tribe.

(iv) The mental and behavioral health interventions and treatment that the program will implement to improve functioning and well-being and, for an Indian child, how the interventions and treatment will be conducted in a manner consistent with the prevailing social and cultural conditions and way of life of the Indian child's tribe.
(v) Any known multiagency care coordination needs that should be planned for during discharge and aftercare planning, as developed pursuant to Section 4096.6, upon the child's transition to a family-based setting.
(C) The engagement with the child and family team members and, in the case of an Indian child, the Indian child's tribe.
(5) The assessment of the qualified individual does not replace or replicate existing case planning or case management activities, roles, and responsibilities of the county placing agency caseworker in preparation of the child's case plan pursuant to Section 16501.1 or requirements of the interagency placement committee established pursuant to this section.
(6) The qualified individual shall provide the assessment required by paragraph (3) and the report required by paragraph (4) to the county placing agency and the short-term residential therapeutic program, or, where applicable, the community treatment facility, as defined in paragraph (8) of subdivision (a) of Section 1502 of the Health and Safety Code, or the out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code, in which the child or nonminor dependent is or will be placed.
(7) It is the intent of the Legislature that the assessments of a qualified individual provided pursuant to this subdivision are provided as specialty mental health services, whenever possible, consistent with all state and federal Medicaid requirements.
(8) For purposes of subparagraph (K) of paragraph (1) of subdivision (a) of Section 827, a qualified individual shall be considered a member of the child's multidisciplinary team."

Welfare and Institutions section 11462.01, subdivision (h)(1) provides:

"(h) (1) The short-term residential therapeutic program shall maintain documentation of the assessments required pursuant to Section 4096 for AFDC-FC funded children, except as provided for in paragraph (3) of subdivision (g). The short-term residential therapeutic program shall inform the department if the county placing agency does not provide the documentation."

Welfare and Institutions section 11462.01, subdivision (h)(3) provides:

"(h)(3)(A) Nothing in subdivisions (a) to (g), inclusive, or this subdivision shall prevent an emergency placement of a child or youth into a certified short-term residential therapeutic program prior to the determination by the interagency placement committee, but only if a licensed mental health professional, as defined in subdivision (j) of Section 4096, has made a written determination within 72 hours of the child's or youth's placement, that the child or youth requires the level of services and supervision provided by the short-term

residential therapeutic program in order to meet their behavioral or therapeutic needs. If the short-term residential therapeutic program serves children placed by county child welfare agencies and children placed by probation departments, the interagency placement committee shall also ensure the requirements of subdivision (c) of Section 16514 have been met with respect to commonality of need.
(i) The interagency placement committee, as appropriate, shall, within 30 days of placement, make the determinations, with recommendations from the child and family team, required by this subdivision.
(ii) If it determines the placement is appropriate, the interagency placement committee, with recommendations from the child and family team, shall transmit the approval, in writing, to the county placing agency and the short-term residential therapeutic program.
(iii) If it determines the placement is not appropriate, the interagency placement committee shall respond pursuant to subparagraph (B).
(B) (i) If the interagency placement committee determines at any time that the placement is not appropriate, it shall, with recommendations from the child and family team, transmit the disapproval, in writing, to the county placing agency and the short-term residential therapeutic program and shall include a recommendation as to the child's appropriate level of care and placement to meet the child's service needs. The necessary interagency placement committee representative or representatives shall participate in any child and family team meetings to refer the child or youth to an appropriate placement, as specified in this section.
(ii) The child may remain in the placement for the amount of time necessary to identify and transition the child to an alternative, suitable placement. On and after October 1, 2021, AFDC-FC shall not be used to fund the placement for more than 30 days from the date that the qualified individual or interagency placement committee determined that the placement is no longer recommended or the court disapproved the placement.
(iii) Notwithstanding clause (ii), if the interagency placement committee determined the placement was not appropriate due to a health and safety concern, immediate arrangements for the child to transition to an appropriate placement shall occur."

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~~(10)~~(11) Medical, psychiatric and psychological reports that identify special needs of children diagnosed as a person with a mental health disability ~~mentally disordered~~ or developmentally disabled.

~~(11)~~(12) Medical and dental insurance coverage information, or information regarding the agency or person responsible for medical and dental costs.

(13) Documentation from a physician as specified in Section 87075(h)(1)(C) if a video camera is used in a bedroom to monitor or diagnose a child's medical condition.

~~(12)~~(14) Consent forms, completed by the child's authorized representative(s), to permit the facility to authorize medical care.

~~(13)~~(15) A copy of the current court order, or written authorization of the child's parent or guardian, for each psychotropic medication, as defined in Section 87001(p) (~~9~~10).

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From form JV-223 Order on Application for Psychotropic Medication:

> "This order is effective until terminated or modified by court order or until 180 days from the date of this order, whichever is earlier. If the prescribing physician is no longer treating the child, this order extends to subsequent treating physicians. A change in the child's placement does not require a new order regarding psychotropic medication. Except in an emergency situation, a new application must be submitted and consent granted by the court before giving the child medication not authorized in this order or increasing medication dosage beyond the maximum daily dosage authorized in this order."

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(A) Written authorization of the child's parent or guardian may only be documented in lieu of a court order if the child is not a dependent or ward of the court, or it is documented in the child's record that the county placing agency has verified a court order is not required.

(B) This section shall not apply when the child's record contains documentation from the child's prescribing physician that the psychotropic medication has been provided in an emergency situation, as described in California Rules of Court, rule 5.640.

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Per Sections 369.5(f) and 739.5(f) of the Welfare and Institutions Code, court authorizations for the administration of psychotropic medication and the rules of the court do not apply to nonminor dependents. It is important to consider that it is possible a court order could exist for a nonminor dependent that specifies they are a ward or dependent of the juvenile court, who is 18 years or older, and is declared unable to or does not have the capacity to make medical decisions regarding the administration of psychotropic medication.

Welfare and Institutions section 369.5, subdivision (f) provides:

"(f) This section does not apply to nonminor dependents, as defined in subdivision (v) of Section 11400."

Welfare and Institutions section 739.5, subdivision (f) provides:

"(f) This section does not apply to nonminor dependents, as defined in subdivision (v) of Section 11400."

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~~(14)~~(16) A separate log for each psychotropic medication prescribed to a child documenting all of the following:

(A) The name of the medication.

(B) The date of the prescription.

(C) The quantity of medication and number of refills initially prescribed.

(D) When applicable, any additional refills prescribed.

(E) The required dosage and directions for use as specified in writing by the physician prescribing the medication, including any changes directed by the physician.

(F) The date and time of each dose taken by the child.

(G) Documentation of each refusal.

1. Documentation shall include the name of the medication refused, date and time of the refusal, the reason for the refusal, who was

notified of the refusal, and any observed results of the refusal.

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In addition to fulfilling the requirements set forth in Section 87070(b)(1~~4~~6)(G)1., a provider may also incorporate the following best practice once a child's psychotropic medication refusal is documented. Should the provider have concerns about the child's ability to safely participate in activities following psychotropic medication refusal, the provider may notify the prescribing physician who may perform an assessment of the child and determine if psychotropic medication refusal will impact the child's ability to safely participate in activities.

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(H) Staff initials for each time a psychotropic medication is taken by a child, as an indication that they supervised the child self-administering their psychotropic medication.

1. Initials shall not be pre-filled on the log.

~~(15)~~(17) Documentation of all mental health services received by a child, to include the services received, the name of the mental health entity, and the date services were provided.

~~(16)~~(18) Documentation of any inability to provide or ensure access to mental health services to a child and the reason why the services were not provided, including the lack of availability of providers, inability to obtain a mental health contract approval or services timely, or the child refuses to participate.

~~(17)~~(19) Documentation of how family members are integrated into the treatment process for the child, including postdischarge, and how sibling connections are maintained, pursuant to Section 87022.1(b)(13)(A).

~~(18)~~(20) Documentation of steps taken to facilitate outreach to the family members of the child, including siblings, pursuant to Section 87022.1(b)(13)(A).

(A) Documentation that the child was consulted in the process to determine the preferred family members they would like to interact with to the extent clinically appropriate. The child's preferred family members can be either

biological family and/or nonrelative extended family members of the child.

(B) Facilitation of outreach may include, but is not limited to, facilitating phone calls and maintaining a call log, arranging for meetings between the child and family members at a convenient time and/or place for the family, assisting the family members in securing adequate means of transportation for meetings with the child, making electronic communication with family members accessible to the child and/or helping the child schedule specific time to interact with their family, consistent with any applicable court orders and in accordance with the child's best interest as specified in Section 87022.1 (b)(13)(A).

~~(19)~~(21) A copy of the standard appraisal form specified in Section 87068.1(c)(1)(C).

(c) If it is determined that the facility can provide the services necessary to meet the child's needs, the following additional information shall be maintained in the child's record:

(1) A copy of the child's original needs and services plan; verification, signed by the child and their authorized representative(s), that they were offered the opportunity to participate in plan development; and verification that the authorized representative(s) have approved the plan.

(2) Signed copies of the facility's policies and procedures regarding the child's removal and/or transfer, discipline, and complaints, and for nonminor dependents the facility's policies and procedures regarding expectations and consequences.

(3) Documentation of any vaccinations that have been obtained as specified in Section 87069.1, if immunization records are not available prior to placement.

(4) Copies of any modifications to the child's needs and services plan; verification, signed by the child and their authorized representative(s), that they were offered the opportunity to participate in any such modifications; and verification that the authorized representative(s) have approved such modifications.

(d) If it is determined that the child is to be removed from or transferred from the facility, the following information shall be maintained in the child's record:

(1) Date the child's authorized representative(s) was notified of the necessity for the child's removal or transfer.

(2) The name, address, and relationship to the child of the person to whom the child was transferred.

(3) Reason for the child's removal or transfer.

(e) When a child transfers from a facility, the licensee shall distribute the child's records as follows:

(1) The child's primary placing agency shall receive all the original records. The original records may include copies of documents where the original is not available.

(2) The child's authorized representative, if applicable, shall receive a copy of all the original records described in subdivision (1).

(f) A licensee shall retain copies of a child's records for at least three years after the child transfers from the facility.

(g) All information and records regarding a child shall be confidential except as otherwise authorized by law.

(h) A child's record shall be confidential and shall be available only to the child, the licensing agency as specified in California Code of Regulations, Title 22, Section 80070(d), the child's attorney, placement agency staff, and short-term residential therapeutic program personnel that need access to the information to perform their duties.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1180.55, 1501, 1507, 1507.6, 1531, and 1562.01, Health and Safety Code; and Sections 369.5, 739., and 739.5, Welfare and Institutions Code.

87070.1 NONMINOR DEPENDENT RECORDS.

(a) In addition to California Code of Regulations, Title 22, Section 80070, and Section 87070, the following shall apply to nonminor dependents.

(b) When a nonminor dependent transfers from a facility, in addition to distributing the child's records as specified in 87070(e), the licensee shall ensure that the nonminor dependent shall receive copies of all records.

(c) A nonminor dependent shall have access to their records in a manner that ensures the confidentiality of other records maintained in the facility. In addition to the requirements specified in 87070(b), nonminor dependent records shall include:

(1) The Transitional Independent Living Case Plan and the Transitional Independent Living Plan for the nonminor dependent, and any modifications to these plans.

(A) For any nonminor dependent who is within 90 days of a planned transfer from foster care into independent living, this also includes the 90-day Transition Plan as described in Welfare and Institutions Code section 16501.1(g)(16)(B).

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Welfare and Institutions Code section 16501.1, subdivision (g)(16)(B) provides:

> "During the 90-day period prior to the participant attaining 18 years of age or older as the state may elect under Section 475(8)(B)(iii) of the federal Social Security Act (42 U.S.C. Sec. 675(8)(B)(iii)), whether during that period foster care maintenance payments are being made on the child's behalf or the child is receiving benefits or services under Section 477 of the federal Social Security Act (42 U.S.C. Sec. 677), a caseworker or other appropriate agency staff or probation officer and other representatives of the participant, as appropriate, shall provide the youth or nonminor dependent with assistance and support in developing the written 90-day transition plan, that is personalized at the direction of the child, information as detailed as the participant elects

that shall include, but not be limited to, options regarding housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services, a power of attorney for health care, and information regarding the advance health care directive form. Information provided regarding health insurance options shall include verification that the eligible youth or nonminor is enrolled in Medi- Cal and a description of the steps that have been or will be taken by the youth's social worker or probation officer to ensure that the eligible youth or nonminor is transitioned into the Medi-Cal program for former foster youth upon case closure with no interruption in coverage and with no new application being required, as provided in Section 14005.28."

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(d) Upon the request of a nonminor dependent, a licensee shall assist them in obtaining and keeping their own records. These records may include:

(1) A certified birth certificate.

(2) A Social Security card.

(3) A California or other state identification card or driver's license.

(4) A proof of citizenship or residency status; or for an alien, evidence of an approved petition for special immigrant juvenile status pursuant to Title 8, C.F.R. Section 204.11.

(5) Death certificates of parents, if applicable.

(6) A proof of county dependency status for education aid applications.

(7) Written information concerning the nonminor dependent's dependency or delinquency case including: information about their family history; placement history; the names, phone numbers, and addresses of siblings and other relatives; and the procedures for inspecting the documents described under Welfare and Institutions Code Section 827.

(8) School records.

(9) Immunization records.

(10) Medical records.

(11) Annual credit reports.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1501.1, 1531, and 1562.01, Health and Safety Code.

87070.2 ADDITIONAL CHILDREN'S RECORDS FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS.

(a) The licensee of a short-term residential therapeutic program shall ensure that records for each child with special health care needs contain the following:

(1) Documentation that the child has been adjudged a dependent of the court under Section 300 of the Welfare and Institutions Code or has not been adjudged a dependent of the court pursuant to Section 300 but is in the custody of the county welfare department, or has a developmental disability and is receiving services and case management from a regional center.

(2) A copy of the child's individualized health care plan as specified in Section 87069.2.

(3) A copy of the written reassessment of the child's individualized health care plan as specified in Section 87069.2(b).

(b) The licensee of a short-term residential therapeutic program caring for children with special health care needs placed shall ensure that:

(1) The needs and services plan for each child in the short-term residential therapeutic program documents the determinations required by Section 87068.12(a)(3).

(2) For each child with special health care needs, the child's records contain the following:

(A) In the child's needs and services plan, a description of the emergency necessitating that the child be placed in the short-term residential therapeutic program and a written plan of relocation specifying the arrangements for subsequent placement in a less restrictive setting as required by Section 87068.12(a)(2); and

(B) In the child's admission agreement,

1. If the 120 calendar day limitation period specified in Section 87068.12(a)(1) has not been exceeded, the number of calendar days the

child may remain in the short-term residential therapeutic program without exceeding the limitation period; or

2. If the 120 calendar day limitation period has been exceeded, the number of calendar days the child may remain in the short-term residential therapeutic program as stated in the extension approved under Section 87068.12(a)(1)(A).

    i. The child's records shall also contain a copy of the letter from the county child welfare department's director or their designee approving the extension.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code; Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 17710(a), 17731(c) and 17732(c) and (d), Welfare and Institutions Code; Sections 1530, and 1562.01 Health and Safety Code.

87072 PERSONAL RIGHTS.

(a) Each facility licensed to provide foster care for children and nonminor dependents shall post a current listing of personal rights. The rights in the facility shall be consistent with the list of personal rights specified in Welfare and Institutions Code section 16001.9(a) and as specified in subsection (c).

(1) Pursuant to Health and Safety Code section 1530.91(b), any facility licensed to provide foster care for six or more children must use material developed by the Office of The Foster Care Ombudsperson to satisfy the requirement for the posting of the personal rights.

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Health and Safety Code section 1530.91 in part provides:

"(a) Except as provided in subdivision (b), a care provider that provides foster care for children pursuant to this chapter shall provide each schoolage child and the child's authorized representative, as defined in regulations adopted by the department, who is placed in foster care, with an age and developmentally appropriate orientation that includes an explanation of the rights of the child, as specified in Section 16001.9 of the Welfare and Institutions Code, and addresses the child's questions and concerns.

(b) Any facility licensed to provide foster care for six or more children pursuant to this chapter shall post a listing of a foster child's rights specified in Section 16001.9 of the Welfare and Institutions Code, as developed by the Office of the State Foster Care Ombudsperson pursuant to Section 16164 of the Welfare and Institutions Code. The Office of the State Foster Care Ombudsperson shall provide the posters it has designed pursuant to Section 16164 of the Welfare and Institutions Code to each facility subject to this subdivision. The posters shall include the telephone number of the Office of the State Foster Care Ombudsperson."

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(b) (1) The licensee shall provide each child, and their authorized representative, regardless of whether the child is in foster care, with the information listed in subdivision (b)(2) at the following times:

(A) Upon placement in a facility;

(B) At the request of a child; ~~and~~

(C) Each time a new right has been added to this Section or Welfare and Institutions Code section 16001.9~~.~~; and

(D) No later than the calendar day following an incident involving the use of a manual restraint on the child.

(2) Pursuant to subdivision (b)(1), the licensee shall provide the following information:

(A) An age or developmentally appropriate orientation that includes an explanation of the rights of the child, as specified in subsection (c) below and in Welfare and Institutions Code section 16001.9, and addresses the child's questions and concerns;

(B) A written copy of these rights;

(C) Information for the agencies the child may contact concerning violations of these rights and other complaints, including the address, email address, and telephone number of the California Department of Social Services Community Care Licensing Division and Foster Care Ombudsperson, and;.

(D) Copies of any law related to the filing of complaints including, but not limited to, the confidentiality of complaints.

(c) The licensee shall ensure that each child, regardless of whether the child is in foster care, is accorded the personal rights specified in Welfare and Institutions Code Section 16001.9, and below, as applicable:

(1) To live in a safe, healthy, and comfortable home where they are treated with respect. If the child is an Indian child, to live in a home that upholds the prevailing social and cultural standards of the child's Indian community, including, but not limited to, family, social, and political ties.

(2) To receive adequate and healthy food.

(3) To visit the facility with their relatives and/or authorized representative(s) prior to admission.

(4) To file a complaint with the facility, as specified in Section 87072.2.

(5) To have the facility inform their authorized representative(s) of their progress at the facility.

(6) To have communications to the facility from their relatives and/or authorized representative(s) answered promptly and completely.

(7) To have visitors visit privately during waking hours without prior notice, provided that such visitations do not infringe upon the rights of other children; do not disrupt planned activities; and are not prohibited by court order or by the child's authorized representative(s).

(A) The child has the right to private visits and contact with the following, unless specified in 87072(c)(7), including:

1. Siblings, family members, and relatives. Visits by the child's siblings, family members, and relatives can only be prohibited by court order.
2. Authorized Representative.
3. Other visitors.

(B) Rules regarding visitation hours, sign-in rules and visiting rooms can be established but shall apply to all visitors.

(8) To be provided with and allowed to possess and use adequate personal items, consistent with Welfare & Institutions Code section 16001.9(a)(3), which includes their own:

(A) Clothing items, provided the clothes are age-appropriate.

1. Clothing provided for school shall not violate school standards, and shall include all necessary items, including, but not limited to, uniforms, gym clothes, or any other mandatory outfits.

2. Clothing shall respect the child's culture, ethnicity, and gender identity and expression.

(B) Toiletries, and grooming, and personal hygiene products, including enclosed razors used for shaving, as age and developmentally appropriate.

1. Toiletries, and grooming and personal hygiene products, shall respect the child's or nonminor dependent's culture, ethnicity, and gender identity and expression.

(C) Personal belongings, including items that were a gift to the child unless prohibited by a discipline program.

(9) To have storage space for private use.

(10) To be free from unreasonable searches of personal belongings.

(11) To possess and use their own cash resources except as specified in Section 87026, and to maintain bank account and manage personal income consistent with the child's age and developmental level, unless prohibited by the case plan.

(12) To make, send, and receive confidential telephone calls and other electronic communications, unless prohibited by court order.

(A) Reasonable restrictions to telephone use may be imposed by the licensee. The licensee shall be permitted to:

1. Restrict the making of long-distance calls upon documentation that requested reimbursement for previous long-distance calls has not been received;

2. Restrict phone use in accordance with the facility's discipline program;

3. Impose restrictions to ensure that phone use does not infringe on the rights of others or restrict the availability of the phone during emergencies.

(B) All restrictions shall be documented in the child's needs and services plan or the facility's discipline policies, and be signed by the child's authorized representative.

(C) Calls permitted to be restricted by subsections (A)1. and (A)2. above shall not include calls to the child's authorized representative, placement agency, family members (including siblings and relatives, except by court order), social workers, attorneys, Court Appointed Special Advocates (CASA), probation officers, representatives designated by the child's Indian Tribe to participate in the juvenile court proceeding, Community Care Licensing Division of the California Department of Social Services or the State Foster Care Ombudsperson.

(13) To have access to letter writing materials and to send and receive unopened mail unless prohibited by court order.

(14) To be provided the names and contact information for social workers, probation officers, attorneys, service providers, youth advocates, Court Appointed Special Advocates (CASAs), and education rights holder if other than the parent or parents, and when applicable, representatives designated by the child's Indian Tribe to participate in the juvenile court proceeding.

(A) The child has the right to communicate with these individuals privately.

(15) To be accorded dignity in their personal relationships with staff and other persons.

(16) To be free of physical, sexual, emotional, or other abuse, and from corporal or unusual punishment, exploitation, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature including, but not limited to, interference with the daily living functions of eating, sleeping, or toileting, or withholding of shelter, clothing, or aids to physical functioning.

(17) To contact the California Department of Social Services Community Care Licensing Division of the Foster Care Ombudsperson, immediately upon request,

regarding violations of rights to speak to representatives of these offices confidentially, and to be free from threats or punishment for making complaints.

(18) To have social contacts with people outside of the foster care system, including, but not limited to, teachers, coaches, religious or spiritual community members, mentors, and friends, and if applicable, Tribal members and members of the Indian community consistent with the prevailing social and cultural standards of the Indian child's Tribe.

(19) To be free to attend religious services, activities, and ceremonies of the child's choice, including, but not limited to, engaging in traditional Native American religious practices, and to have visits from the spiritual advisor of the child's choice. Attendance at religious services, activities, and ceremonies in or outside of the facility, shall be on a completely voluntary basis.

(20) To have caregivers, child welfare and probation personnel, and legal counsel who have received instruction on cultural competency and sensitivity relating to sexual orientation, gender identity and expression, and best practices for providing adequate care to lesbian, gay, bisexual, and transgender children in out-of-home care.

(21) To participate in extracurricular, cultural, racial, ethnic, personal enrichment, and social activities, including, but not limited to, access to computer technology and the internet, consistent with the child's age, maturity, developmental level, sexual orientation, and gender identity and expression.

(22) To not be locked in any portion of their foster care placement at any time.

(A) The licensee shall not be prohibited by this provision from locking exterior doors and windows or from establishing house rules for the protection of children provided the children are able to exit the facility.

(B) The licensee shall be permitted to utilize means other than those specified in (A) above for securing exterior doors and windows only provided the

children are able to exit the facility and with the prior approval of the licensing agency.

(23) Not to be placed in any restraining device. Postural supports may be used if they are approved in advance by the licensing agency as specified in (A) through (F) below.

(A) Postural supports shall be limited to appliances or devices including braces, spring release trays, or soft ties used to achieve proper body position and balance, to improve a child's mobility and independent functioning, or to position rather than restrict movement including, but not limited to, preventing a child from falling out of bed, a chair, etc.

1. Physician-prescribed orthopedic devices such as braces or casts used for support of a weakened body part or correction of body parts are considered postural supports.

(B) All requests to use postural supports shall be in writing and include a written order of a physician indicating the need for such supports. The licensing agency shall be authorized to require other additional documentation in order to evaluate the request.

(C) Approved postural supports shall be fastened or tied in a manner which permits quick release by the child .

(D) The licensing agency shall approve the use of postural supports only after the appropriate fire clearance, as required by California Code of Regulations, Title 22, Section 80020(a) or (b), has been secured.

(E) The licensing agency shall have the authority to grant conditional and/or limited approvals to use postural supports.

(F) Under no circumstances shall postural supports include tying of, or depriving or limiting the use of, a child's hands or feet.

1. A bed rail that extends from the head half the length of the bed and used only for assistance with mobility shall be allowed with prior

licensing approval. Bed rails that extend the entire length of the bed are prohibited.

(G) Protective devices including, but not limited to, helmets, elbow guards, and mittens which do not prohibit a child's mobility but rather protect the child from self-injurious behavior are not to be considered restraining devices for the purpose of this regulation. Protective devices may be used if they are approved in advance by the licensing agency as specified below.

1. All requests to use protective devices shall be in writing and include a written order of a physician indicating the need for such devices. The licensing agency shall be authorized to require additional documentation including, but not limited to, the Individual Program Plan (IPP) as specified in Welfare and Institutions Code Section 4646, and the written consent of the authorized representative, in order to evaluate the request.
2. The licensing agency shall have the authority to grant conditional and/or limited approvals to use protective devices.

(H) Under no circumstances shall postural supports or protective devices be used for disciplinary purposes.

(24) To access and receive health-related services, as defined in Section 87001(h)(3), with reasonable promptness that meets the needs of the child.

(25) To participate in decisions regarding health-related services and treatment, including but not limited to, the following:

(A) Choosing, whenever feasible and in accordance with applicable law, their own health care provider, if they are 12 years or older and payment for their service is authorized under applicable federal Medicaid law or other approved insurance.

(B) Communicating with their health care provider regarding treatment concerns or needs.

(C) Requesting a second opinion before being required to undergo invasive medical, dental, or psychiatric treatment.

(26) To obtain, possess and use contraception as well as medications for prevention or treatment of pregnancy, including but not limited to: prenatal vitamins, birth control medication, emergency contraception, long-acting reversible contraceptives, condoms, and barrier methods.

(27) To obtain, possess, and use contraception as well as medications for the prevention or treatment of sexually transmitted diseases at 12 years of age or older.

(28) To have access to age-appropriate, medically accurate information about reproductive health care, the prevention of unplanned pregnancy, and the prevention and treatment of sexually transmitted infections.

(29) Except in an emergency, to be free of the administration of medication or chemical substances, and to be free of all psychotropic medications unless prescribed by a physician, and in the case of children, authorized by a judge, without consequences or retaliation.

(30) To personally consent to or decline medical services related to the following, without the consent or knowledge of any adult, including but not limited to, a parent, guardian, licensee, social worker, probation officer, judge or authorized representative:

(A) The prevention, diagnosis or treatment of pregnancy, including but not limited to: female or male birth control or protection, pregnancy testing, and prenatal care, at any age.

(B) Abortion, at any age.

(C) Sexual assault or rape, at any age.

(D) The prevention, testing, and treatment of sexually transmitted diseases, at 12 years of age or older.

(E) Mental health services, at 12 years of age or older.

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Family Code section 6925 provides:

(a) A minor may consent to medical care related to the prevention or treatment of pregnancy.
(b) This section does not authorize a minor:
(1) To be sterilized without the consent of the minor's parent or guardian.
(2) To receive an abortion without the consent of a parent or guardian other than as provided in Section 123450 of the Health and Safety Code.

Although Family Code section 6925 currently states a minor is not authorized to receive an abortion without the consent of a parent or guardian, in 1997, the California Supreme Court held that a statute requiring a pregnant minor to obtain parental consent or judicial authorization for an abortion violates the state constitutional right to privacy. (Am. Acad. of Pediatrics v. Lungren (1997) 16 Cal.4th 307.) Therefore, a minor has the right to choose whether to terminate a pregnancy without the consent of a parent or guardian.

Family Code section 6926 provides in part:

(a) A minor who is 12 years of age or older and who may have come into contact with an infectious, contagious, or communicable disease may consent to medical care related to the diagnosis or treatment of the disease, if the disease or condition is one that is required by law or regulation adopted pursuant to law to be reported to the local health officer, or is a related sexually transmitted disease, as may be determined by the State Public Health Officer.

(b) A minor who is 12 years of age or older may consent to medical care related to the prevention of a sexually transmitted disease.

The prevention or treatment of pregnancy includes contraception, pregnancy testing and counseling, abortion, and prenatal care.
The prevention or treatment of sexually-transmitted diseases includes pre-exposure prophylaxis (PREP) and post-exposure prophylaxis (PEP).

Family Code section 6928 states in part:

(a) "Sexually assaulted" as used in this section includes, but is not limited to, conduct coming within Section 261, 286, or 287 of the Penal Code.
(b) A minor who is alleged to have been sexually assaulted may consent to medical care related to the diagnosis and treatment of the condition, and the

collection of medical evidence with regard to the alleged sexual assault.
(c) The professional person providing medical treatment shall attempt to contact the minor's parent or guardian and shall note in the minor's treatment record the date and time the professional person attempted to contact the parent or guardian and whether the attempt was successful or unsuccessful. This subdivision does not apply if the professional person reasonably believes that the minor's parent or guardian committed the sexual assault on the minor.

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(31) To have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, and expression, mental or physical disability, medical condition, genetic information, marital status, ~~or~~ HIV status, citizenship, immigration status or primary language.

(A) This includes the right of an Indian child to be free from discrimination based on the child's political affiliation with an Indian Tribe or Alaskan village.

(32) To have placement that utilizes trauma-informed and evidence-based de- escalation and intervention techniques.

(A) Law enforcement intervention shall only be requested when there is an imminent threat to the life or safety of the child or another person or as a last resort after other diversion and de-escalation techniques have been utilized and only upon approval of a staff supervisor.

(B) Law enforcement intervention shall not be used as a threat or in retaliation against the child.

(33) To attend Independent Living Program classes and activities, if the child meets the age requirements, and to not be prevented from attending as a consequence or punishment.

(34) To work and develop job skills at an age-appropriate level, consistent with state

law.

(35) To attend school.

(36) To receive an age-appropriate allowance.

(37) To maintain privacy regarding sexual orientation and gender identity and expression, unless the child permits the information to be disclosed, or disclosure is required to protect their health and safety, or disclosure is compelled by law or a court order.

(38) To confidentiality of medical and mental health records, including, but not limited to, HIV status, substance use disorder history and treatment, and sexual and reproductive health care, consistent with existing law.

(39) To be referred to by the child's preferred name and gender pronouns.

(d) A licensee shall not subject a child to harassment, punishment, or retribution for exercising the personal rights specified in subsection (c) and Welfare and Institutions Code section 16001.9.

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EXAMPLE: Children who are privately placed in a short-term residential therapeutic program should be afforded only those rights that are applicable, and therefore would not be afforded those rights that apply only to a child placed in foster care. For instance, privately placed children would not be involved in the development and review of their case plan, and plan for permanent placement. Please refer to Welfare & Institutions Code Section 16001.9 for complete list of personal rights.

Assembly Bill 175 (Chapter 416, Statutes of 2019) consolidated personal rights afforded to foster children in other areas of law into Welfare and Institutions Code §16001.9. While the entire Foster Youth Bill of Rights is included in Handbook, only those rights that are enforceable by Community Care Licensing are listed in the regulations text. A licensee shall not interfere with a child's personal rights, whether specified in Section 84072(c) or Welfare and Institutions Code section 16001.9.

Welfare and Institutions Code section 16001.9, subsection (a) provides:

"(a) All children placed in foster care, either voluntarily or after being adjudged a ward or dependent of the juvenile court pursuant to Section 300, 601, or 602, shall have the rights specified in this section. These rights also apply to nonminor dependents in foster care, except when they conflict with nonminor dependents' retention of all their legal decision making authority as an adult. The rights are as follows:

(1) To live in a safe, healthy, and comfortable home where they are treated with respect. If the child is an Indian child, to live in a home that upholds the prevailing social and cultural standards of the child's Indian community, including, but not limited to, family, social, and political ties.

(2) To be free from physical, sexual, emotional, or other abuse, corporal punishment, and exploitation.

(3) To receive adequate and healthy food, adequate clothing, grooming and hygiene products, and an age-appropriate allowance. Clothing and grooming and hygiene products shall respect the child's culture, ethnicity, and gender identity and expression.

(4) To be placed in the least restrictive setting possible, regardless of age, physical health, mental health, sexual orientation, and gender identity and expression, juvenile court record, or status as a pregnant or parenting youth, unless a court orders otherwise.

(5) To be placed with a relative or nonrelative extended family member if an appropriate and willing individual is available.

(6) To not be locked in any portion of their foster care placement, unless placed in a community treatment facility.

(7) To have a placement that utilizes trauma-informed and evidence-based deescalation and intervention techniques, to have law enforcement intervention requested only when there is an imminent threat to the life or safety of a child or another person or as a last resort after other diversion and deescalation techniques have been utilized, and to not have law enforcement intervention used as a threat or in retaliation against the child.

(8) To not be detained in a juvenile detention facility based on their status as a dependent of the juvenile court or the child welfare services department's inability to provide a foster care placement. If they are detained, to have all the rights afforded under the United States Constitution, the California Constitution, and all applicable state and federal laws.

(9) To have storage space for private use.

(10) To be free from unreasonable searches of personal belongings.

(11) To be provided the names and contact information for social workers, probation officers, attorneys, service providers, foster youth advocates and supporters, Court Appointed Special Advocates (CASAs), and education rights holder if other than the parent or parents, and when applicable, representatives designated by the child's Indian tribe to participate in the juvenile court proceeding, and to communicate with these individuals privately.

(12) To visit and contact siblings, family members, and relatives privately, unless prohibited by court order, and to ask the court for visitation with the child's siblings.

(13) To make, send, and receive confidential telephone calls and other electronic communications, and to send and receive unopened mail, unless prohibited by court order.

(14) To have social contacts with people outside of the foster care system, including, but not limited to, teachers, coaches, religious or spiritual community members, mentors, and friends. If the child is an Indian child, to have the right to have contact with tribal members and members of their Indian community consistent with the prevailing social and cultural conditions and way of life of the Indian child's tribe.

(15) To attend religious services, activities, and ceremonies of the child's choice, including, but not limited to, engaging in traditional Native American religious practices.

(16) To participate in extracurricular, cultural, racial, ethnic, personal enrichment, and social activities, including, but not limited to, access to computer technology and the internet, consistent with the child's age, maturity, developmental level, sexual orientation, and gender identity and expression.

(17) To have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity and expression, mental or physical disability, or HIV status.

(18) To have caregivers, child welfare and probation personnel, and legal counsel who have received instruction on cultural competency and sensitivity relating to sexual orientation, gender identity and expression, and best practices for providing adequate care to lesbian, gay, bisexual, and transgender children in out-of-home care.

(19) To be placed in out-of-home care according to their gender identity, regardless of the gender or sex listed in their court, child welfare, medical, or vital records, to be referred to by the child's preferred name and gender pronoun, and to maintain privacy regarding sexual orientation and gender identity and expression,

unless the child permits the information to be disclosed, or disclosure is required to protect their health and safety, or disclosure is compelled by law or a court order.

(20) To have child welfare and probation personnel and legal counsel who have received instruction on the federal Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.) and on cultural competency and sensitivity relating to, and best practices for, providing adequate care to Indian children in out-of-home care.

(21) To have recognition of the child's political affiliation with an Indian tribe or Alaskan village, including a determination of the child's membership or citizenship in an Indian tribe or Alaskan village; to receive assistance in becoming a member of an Indian tribe or Alaskan village in which the child is eligible for membership or citizenship; to receive all benefits and privileges that flow from membership or citizenship in an Indian tribe or Alaskan village; and to be free from discrimination based on the child's political affiliation with an Indian tribe or Alaskan village.

(22) (A) To access and receive medical, dental, vision, mental health, and substance use disorder services, and reproductive and sexual health care, with reasonable promptness that meets the needs of the child, to have diagnoses and services explained in an understandable manner, and to participate in decisions regarding health care treatment and services. This right includes covered gender affirming health care and gender affirming mental health care, and is subject to existing laws governing consent to health care for minors and nonminors and does not limit, add, or otherwise affect applicable laws governing consent to health care.

(B) To view and receive a copy of their medical records to the extent they have the right to consent to the treatment provided in the medical record and at no cost to the child until they are 26 years of age.

(23) Except in an emergency, to be free of the administration of medication or chemical substances, and to be free of all psychotropic medications unless prescribed by a physician, and in the case of children, authorized by a judge, without consequences or retaliation. The child has the right to consult with and be represented by counsel in opposing a request for the administration of psychotropic medication and to provide input to the court about the request to authorize medication. The child also has the right to report to the court the positive and adverse effects of the medication and to request that the court reconsider, revoke, or modify the authorization at any time.

(24) (A) To have access to age-appropriate, medically accurate information about reproductive health care, the prevention of unplanned pregnancy, and the prevention and treatment of sexually transmitted infections.

(B) At any age, to consent to or decline services regarding contraception,

pregnancy care, and perinatal care, including, but not limited to, abortion services and health care services for sexual assault without the knowledge or consent of any adult.

(C) At 12 years of age or older, to consent to or decline health care services to prevent, test for, or treat sexually transmitted diseases, including HIV, and mental health services, without the consent or knowledge of any adult.

(25) At 12 years of age or older, to choose, whenever feasible and in accordance with applicable law, their own health care provider for medical, dental, vision, mental health, substance use disorder services, and sexual and reproductive health care, if payment for the service is authorized under applicable federal Medicaid law or other approved insurance, and to communicate with that health care provider regarding any treatment concerns or needs and to request a second opinion before being required to undergo invasive medical, dental, or psychiatric treatment.

(26) To confidentiality of medical and mental health records, including, but not limited to, HIV status, substance use disorder history and treatment, and sexual and reproductive health care, consistent with existing law.

(27) To attend school, to remain in the child's school of origin, to immediate enrollment upon a change of school, to partial credits for any coursework completed, and to priority enrollment in preschool, afterschool programs, a California State University, and each community college district, and to receive all other necessary educational supports and benefits, as described in the Education Code.

(28) To have access to existing information regarding the educational options available, including, but not limited to, the coursework necessary for career, technical, and postsecondary educational programs, and information regarding financial aid for postsecondary education, and specialized programs for current and former foster children available at the University of California, the California State University, and the California Community Colleges.

(29) To attend Independent Living Program classes and activities, if the child meets the age requirements, and to not be prevented by caregivers from attending as a consequence or punishment.

(30) To maintain a bank account and manage personal income, consistent with the child's age and developmental level, unless prohibited by the case plan.

(31) To work and develop job skills at an age-appropriate level, consistent with state law.

(32) For children 14 to 17 years of age, inclusive, to receive a consumer credit report provided to the child by the social worker or probation officer on an annual basis from each of the three major credit reporting agencies, and to receive

assistance with interpreting and resolving any inaccuracies.

(33) To be represented by an attorney in juvenile court; to have an attorney appointed to advise the court of the child's wishes, to advocate for the child's protection, safety, and well-being, and to investigate and report to the court on legal interests beyond the scope of the juvenile proceeding; to speak to the attorney confidentially; and to request a hearing if the child feels their appointed counsel is not acting in their best interest or adequately representing their legal interests.

(34)(A) To receive a notice of court hearings, to attend court hearings, to speak to the judge, to view and receive a copy of the court file, subject to existing federal and state confidentiality laws, and to object to or request the presence of interested persons during court hearings. If the child is an Indian child, to have a representative designated by the child's Indian tribe be in attendance during hearings.

(B) When a child is entitled to receive a copy of the court report, case plan, and transition to independent living plan (TILP), those items shall be provided in the child's primary language.

(35) To the confidentiality of all juvenile court records consistent with existing law.

(36) To view and receive a copy of their child welfare records, juvenile court records, and educational records at no cost to the child until the child is 26 years of age, subject to existing federal and state confidentiality laws.

(37) To be involved in the development of their own case plan, including placement decisions, and plan for permanency. This involvement includes, but is not limited to, the development of case plan elements related to placement and gender affirming health care, with consideration of the child's gender identity. If the child is an Indian child, the case plan shall include protecting the essential tribal relations and best interests of the Indian child by assisting the child in establishing, developing, and maintaining political, cultural, and social relationships with the child's Indian tribe and Indian community.

(38) To review the child's own case plan and plan for permanent placement if the child is 10 years of age or older, and to receive information about their out-of-home placement and case plan, including being told of changes to the plan.

(39) To request and participate in a child and family team meeting, as follows:

(A) Within 60 days of entering foster care, and every 6 months thereafter.

(B) If placed in a short-term residential therapeutic program, or receiving intensive home-based services or intensive case coordination, or receiving therapeutic foster care services, to have a child and family team meeting at least every 90 days.

(C) To request additional child and family team meetings to address concerns, including, but not limited to, placement disruption, change in service needs, addressing barriers to sibling or family visits, and addressing difficulties in coordinating services.

(D) To have both informal and formal support people participate, consistent with state law.

(40) (A) To be informed of these rights in an age and developmentally appropriate manner by the social worker or probation officer and to be provided a copy of the rights in this section at the time of placement, any placement change, and at least once every six months or at the time of a regularly scheduled contact with the social worker or probation officer.

(B) For a child who speaks a primary language other than English, to be provided a copy of the child's rights in the child's primary language.

(41) To be provided with contact information for the Community Care Licensing Division of the State Department of Social Services, the tribal authority approving a tribally approved home, and the State Foster Care Ombudsperson, at the time of each placement, and to contact any or all of these offices immediately upon request regarding violations of rights, to speak to representatives of these offices confidentially, and to be free from threats or punishment for making complaints.

(b) The rights described in this section are broad expressions of the rights of children in foster care and are not exhaustive of all rights set forth in the United States Constitution and the California Constitution, federal and California statutes, and case law.

(c) This section does not require, and shall not be interpreted to require, a foster care provider to take any action that would impair the health and safety of children in out-of-home placement.

(d) The State Department of Social Services and each county welfare department are encouraged to work with the Student Aid Commission, the University of California, the California State University, and the California Community Colleges to receive information pursuant to paragraph (28) of subdivision (a)."

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(e) Nothing in this section shall be interpreted to require a licensee or facility staff to take any action that would impair the health and safety of children in out-of-home

placement consistent with Welfare & Institutions Code section 16001.9(c).

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Welfare and Institutions Code section 16001.9, subsection (c) provides:

> "This section does not require, and shall not be interpreted to require, a foster care provider to take any action that would impair the health and safety of children in out-of-home placement."

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Note: Authority cited: Sections 1502.8, 1530, 1530.91 and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1180.55, 1501, 1502, 1530.91, 1531, and 1562.01, Health and Safety Code; Section 6925, 6926 and 6928, Family Code; Section 16001.9, Welfare and Institutions Code.

87072.1 DISCIPLINE POLICIES AND PROCEDURES.

(a) The licensee shall develop, maintain, and implement written facility positive discipline policies and procedures meeting the requirements specified in (b) through (e) below and Section 87078.2.

(1) The positive discipline policies and procedures required by this Section shall be included in the program statement, as specified in Section 87022.1(b).

(2) The positive discipline policies and procedures shall be trauma-informed, as specified in Section 87078.2, and age and developmentally appropriate.

(3) Staff, children, and authorized representatives shall receive copies of such policies and procedures, as specified in Sections 87065(m) and 87068.1(c)(4).

(4) Signed copies of such policies and procedures shall be maintained in the child's record, as specified in Section 87070(c)(2).

(b) Any form of discipline which violates a child's personal rights as specified in Section 87072 shall be prohibited.

(c) Calls to law enforcement must be made in accordance with the facility's emergency intervention plan as specified in Section 87095.22. Calling or threatening to call law enforcement is prohibited as a form of discipline.

(d) Acceptable forms of positive discipline shall include the following:

(1) Exclusion in an unlocked living, sleeping, or play area.

(2) Prohibition against attendance at or participation in planned activities.

(3) Prohibition against use of entertainment devices including but not limited to telephones, televisions, personal computers and other internet-enabled devices, video game consoles, radios, portable media players, and stereo equipment.

(4) Performance of additional duties related to training needs identified in the child's needs and services plan.

(5) Any other form of discipline approved in writing, in advance by the licensing agency.

(e) When a child is subject to positive discipline, a licensee shall do all of the following:

(1) Inform the child that it is necessary for the licensee to impose discipline on the child and explain why the behavior or action is not acceptable.

(2) Discuss the reason and need for the licensee to impose discipline on the child and provide the child with the opportunity to participate in choosing the appropriate form of discipline.

(3) Develop a plan, including time limit, with the child to be subject to and comply with the chosen form of discipline that is trauma-informed, culturally relevant, and age and developmentally appropriate.

(4) Document the decision to subject the child to the chosen form of discipline and the steps taken in subjecting the child to the form of discipline.

(f) The licensee or staff shall not discipline a child for refusing to take their psychotropic medication.

(1) Document the child's medication refusal, as specified in Section 87070(b)(~~14~~16)(G), and within two calendar days contact the child's prescribing physician.

(2) When determining whether a child who has not taken a prescribed psychotropic medication is able to safely participate in an activity the licensee shall use the reasonable and prudent parent standard described in Welfare and Institutions Code Section 362.05. The determination shall be based upon an individualized consideration of the specific situation and the cognitive, emotional, physical, and behavioral capacities of the child.

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Welfare and Institutions Code section 362.05(c)(1) provides:

> '"Reasonable and prudent parent" or "reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver

shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities."

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NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1531, 1538.7, and 1562.01, Health and Safety Code.

87072.11 EXPECTATIONS AND CONSEQUENCES FOR NONMINOR DEPENDENTS.

(a) Section 87072.1 does not apply to nonminor dependents.

(b) The licensee shall develop, implement, and maintain written facility expectations and consequences policies and procedures for nonminor dependents meeting the requirements specified in subsection (c) below.

(1) The policies and procedures for expectations and consequences required by this Section shall be included in the program statement, as specified in Section 87022.1(b).

(2) The expectations and consequences policies and procedures shall be trauma-informed, as specified in Section 87078.2.

(3) Staff, nonminor dependents, and authorized representatives shall receive copies of such policies and procedures, as specified in Sections 87065(m) and 87068.11(l).

(4) Signed copies of such policies and procedures shall be maintained in the nonminor dependent's record, as specified in Section 87070(c)(2) ~~87070.1(d)(11)~~.

(5) A nonminor dependent shall be given the opportunity to review these policies and procedures with the licensee and discuss which expectations and consequences should or should not be applied based on the nonminor dependent's needs and in accordance with their needs and services plan and treatment plan while the nonminor dependent is living in the facility.

(c) Any consequence that violates a nonminor dependent's personal rights as specified in Section 87072 shall be prohibited.

(d) Calls to law enforcement must be made in accordance with the facility's emergency intervention plan as specified in Section 87095.22. Calling or threatening to call law enforcement is prohibited as a consequence or other form of discipline.

(e) If a nonminor dependent does not comply with the expectations for living in the facility, the nonminor dependent shall be subject to reasonable, trauma-informed, age and

developmentally appropriate, and temporary consequences as discussed by the licensee and the nonminor dependent.

(1) Acceptable forms of reasonable and temporary consequences shall include, but not be limited to, the following:

(A) Prohibition against attendance at, or participation in, planned activities.

(B) Any other form of consequence approved in writing, in advance, by the licensing agency.

(f) When a nonminor dependent is subject to reasonable, trauma-informed, age and developmentally appropriate, and temporary consequences for noncompliance with the expectations for living in the facility, the licensee shall do all of the following:

(1) Discuss with the nonminor dependent the reason and need for the licensee to impose consequences on the nonminor dependent.

(2) Provide the nonminor dependent with the opportunity to participate in choosing the appropriate consequence.

(3) Develop a plan, including time limit, with the nonminor dependent for the nonminor dependent to be subject to and comply with the chosen consequence.

(A) The licensee shall consult the nonminor dependent's needs and services and plan to ensure any imposed consequences align with stated objectives, interventions, and services identified in the nonminor dependent's needs and services plan.

(4) Establish a time limit for the nonminor dependent to be subject to and comply with the chosen consequence.

(5) Document the decision to subject the nonminor dependent to the chosen consequence and the steps taken in subjecting the nonminor dependent to the consequence.

(g) The licensee shall not subject a nonminor dependent to a consequence for refusing to take their psychotropic medication.

(1) Document the nonminor dependent medication refusal, as specified in Section 87070(b)(~~13~~16)(G) and within two calendar days contact the nonminor dependent prescribing physician.

NOTE: Authority cited: Sections 1501, 1502.7, 1530, 1531, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1531, 1538.7, and 1562.01, Health and Safety Code.

87072.2 COMPLAINT PROCEDURES.

(a) The licensee shall develop, maintain and implement accessible written complaint procedures by which children, or their authorized representatives, if any, are permitted to file complaints, without fear of retaliation, with the facility administrator regarding facility staff or operations.

(1) Staff, children, and authorized representatives, if any, shall receive copies of such procedures, as specified in Sections 87065(m), 87068.1(c)(4) and 87068.11(l)(6).

(2) Signed copies of such procedures shall be maintained in each child's record, as specified in Section 87070(c)(2).

(3) The complaint procedures shall be posted in a location in the facility which is accessible to children, and their authorized representatives.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1507, 1531, and 1562.01, Health and Safety Code.

87072.3 PERSONAL RIGHTS FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS.

(a) Except as specified in this section, Section 87072(c) (23) shall not apply to children with special health care needs.

(b) A child with special health care needs has the right to be free from any restraining/postural support device imposed for purposes of discipline or convenience, and not required to treat the child's specific medical symptoms.

(1) Physical restraining devices may be used for the protection of a child with special health care needs during treatment and diagnostic procedures such as, but not limited to, intravenous therapy or catheterization procedures. The restraining device, which shall not have a locking device, shall be applied for no longer than the time required to complete the treatment and shall be applied in conformance with the child's individualized health care plan. The child's individualized health care plan shall include all of the following:

(A) The specific medical symptom(s) that require use of the restraining device.

(B) An evaluation of less restrictive therapeutic interventions and the reason(s) for ruling out these other practices as ineffective.

(C) A written order by the child's physician. The order must specify the duration and circumstances under which the restraining device is to be used.

(2) Postural supports, as specified in Sections 87072(c)(23)(A) half-length bed rails as specified in Section 87072(c)(23)(F), and protective devices as specified in Section 87072(c)(23)(G) may be used if prescribed in the individualized health care plan. The use of a postural support or protective device and the method of application shall be specified in the child's individualized health care plan and approved in writing by the child's physician.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code; and Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Section 17730, Welfare and Institutions Code; Section 1562.01, Health and Safety Code.

87074 TRANSPORTATION.

(a) In addition to California Code of Regulations, Title 22, Section 80074, the following shall apply:

(b) The licensee and their staff are prohibited from smoking a tobacco product, or permitting any person from smoking a tobacco product in a motor vehicle that is regularly used to transport children, regardless of when the children are present. This prohibition applies when the motor vehicle is moving or at rest. Smoking has the same meaning as in subdivision (c) of Section 22950.5 of the Business and Professions Code, and tobacco product means a product or device as defined in subdivision (d) of Section 22950.5 of the Business and Professions Code.

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Business and Professions Code 22950.5(c) and (d) provide:

> "(c) 'Smoking' means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. 'Smoking' includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.
>
> (d)(1) 'Tobacco product' means any of the following:
> (A) A product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff.
> (B) An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah.
> (C) Any component, part, or accessory of a tobacco product, whether or not sold separately.
> (2) 'Tobacco product' does not include a product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation

product or for other therapeutic purposes where the product is marketed and sold solely for such an approved purpose.

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(c) Unless other arrangements are specified in the needs and services plan or the Transitional Independent Living Plan for a child or nonminor dependent, a licensee shall ensure transportation is provided to the following:

(1) Health-related services.

(2) School, including to the child's school of origin.

(3) Extracurricular, personal enrichment, cultural, racial, ethnic, and social activities, in accordance with the reasonable and prudent parent standard specified in Section 87067.

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A foster child must be provided transportation to health-related services (See Welfare & Institution Code, §16001.9, subdivision (a)(4); 22 CCR §§80075, subdivision(a), and 87072, subdivision (c)(1). Many reproductive health services are time- sensitive (e.g. emergency contraception), therefore transportation is to be provided in a timely manner in order to meet the requirement.

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(d) If a licensee provides transportation to a child or nonminor dependent, the licensee shall ensure that the vehicle used to transport the child or nonminor dependent is in safe operating condition.

(e) The licensee shall ensure that the transportation provided safeguards the health and safety of a child and shall not violate the personal rights of a child as required by Section 87072, including the right to have equal access to all available services and to not be subjected to discrimination based on actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity and

expression, mental or physical disability, medical condition, genetic information, marital status, ~~or~~ HIV status, citizenship, immigration status or primary language.

(f) The licensee may satisfy its obligation to provide transportation as required by this section if the licensee has entered into a written agreement with a third party for the regular provision of transportation. A third-party contractor may be an agency, private business/entity, individual, or possibly a rideshare company. The written agreement shall be made available to the department upon request. The licensee may also satisfy its obligation to provide transportation as required by this section if the licensee uses a third party on a rare occurrence, that is not regular or routine, to provide transportation without a written agreement and the licensee meets all requirements for the reasonable prudent parent standard.

NOTE: Authority cited: Sections 1530. and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1530.7, 1562.01, and 118948, Health and Safety Code.

87075 HEALTH RELATED SERVICES.

(a) In addition to California Code of Regulations, Title 22, Section 80075, the following shall apply.

(b) The licensee shall ensure that all prescribed medications, are centrally stored, as provided in California Code of Regulations, Title 22, Section 80075(j), with the exception of contraceptives and medications used to treat or prevent pregnancy and sexually transmitted disease or infection, which children have the right to possess as specified in Section 87072(c)(26) and (27).

(1) Licensees shall continue to ensure the health and safety of all children in the facility.

(A) The licensee shall provide the child with a locked container in which to store their contraceptives.

1. There shall be more than one key to the container. One key shall be given to the child and the others shall be kept by short-term residential therapeutic program staff.

(c) Psychotropic medications shall be used only in accordance with the written directions of the physician prescribing the medication and in accordance with authorization requirements specified in Sections 369.5(a)(1) and 739.5(a)(1) of the Welfare and Institutions Code and Section 87070(b)(~~13~~15).

(1) Psychotropic medications may be administered to children without court order or parental authorization in an emergency. Emergency procedures are specified in the California Rules of Court, rule 5.640.

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Research suggests the effects of childhood trauma may cause early development of puberty. The licensee should be prepared to assist a child with accessing age-appropriate education about healthy relationships, healthy sexual development, positive gender identity, body image and safety, education about puberty, reproductive health and sexual

development information at any age. Resources for these topics can be found on the Department's Healthy Sexual Development website:

http://www.cdss.ca.gov/inforesources/Foster-Care/Healthy-Sexual-Development-Project

Welfare and Institutions Code section 369.5(a)(1) provides:

> (a)(1) If a child is adjudged a dependent child of the court under Section 300 and the child has been removed from the physical custody of the parent under Section 361, only a juvenile court judicial officer shall have authority to make orders regarding the administration of psychotropic medications for that child. The juvenile court may issue a specific order delegating this authority to a parent upon making findings on the record that the parent poses no danger to the child and has the capacity to authorize psychotropic medications. Court authorization for the administration of psychotropic medication shall be based on a request from a physician, indicating the reasons for the request, a description of the child's diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication.

Welfare and Institutions Code section 739.5(a)(1) provides:

> (a)(1) If a minor who has been adjudged a ward of the court under Section 601 or 602 is removed from the physical custody of the parent under Section 726 and placed into foster care, as defined in Section 727.4, only a juvenile court judicial officer shall have authority to make orders regarding the administration of psychotropic medications for that minor. The juvenile court may issue a specific order delegating this authority to a parent upon making findings on the record that the parent poses no danger to the minor and has the capacity to authorize psychotropic medications. Court authorization for the administration of psychotropic medication shall be based on a request from a physician, indicating the reasons for the request, a description of the minor's diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication.

California Rule of Court, rule 5.640 provides in relevant part:

> (i) Emergency treatment
> (1) Psychotropic medications may be administered without court authorization in an emergency situation. An emergency situation occurs when:
> (A) A physician finds that the child requires psychotropic medication to treat a psychiatric disorder or illness; and

(B) The purpose of the medication is:
(i) To protect the life of the child or others, or
(ii) To prevent serious harm to the child or others, or
(iii) To treat current or imminent substantial suffering; and
(C) It is impractical to obtain authorization from the court before administering the psychotropic medication to the child.
(2) Court authorization must be sought as soon as practical but in no case more than two court days after the emergency administration of the psychotropic medication.

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(d) In addition to the care and services specified in the above Section (a), the licensee shall ensure that each child receives all necessary health-related services defined in Section 87001(h)(3), including substance use disorder services, and reproductive and sexual health care.

(1) Reproductive and sexual health care includes abortion and contraception related services and gender affirming health care and mental health care.

(2) Children shall be allowed to participate in decisions regarding health care treatment and services, as specified in Section 87072(c)(25).

(e) The licensee shall allow access to, and assist a child in accessing age-appropriate, medically accurate information as defined in Education Code section 51931(f) about reproductive health care, and the prevention, diagnosis and treatment of pregnancy and sexually transmitted diseases and infections.

(1) The licensee shall direct a child to reliable sources of information.

(2) The licensee shall not create or enforce policies requiring children to practice abstinence.

(f) Procedures for a child's medication refusal shall be as specified in Section 87070(b)(~~14~~16)(G).

(g) The licensee shall provide an isolation room or area that shall be used where separation from others is required to prevent the spread of a communicable disease.

(h) Video cameras are only allowed in a child's bedroom when necessary to monitor or diagnose a medical condition provided all of the following requirements are met:

(1) The licensee must obtain written documentation, including but not limited to, a prescription, note, or letter, signed by a physician, advising the use of a video camera in bedroom for a medical purpose.

(A) The physician may be identified with the title MD (medical doctor) or DO (osteopathic doctor) of any appropriate medical specialty, including a psychiatrist.

(B) The physician's written documentation must specify the times when the camera should be used and must include an end date.

(C) The physician's written documentation must be kept in the child's record.

(D) The licensee must report the use of a video camera in a child's bedroom to the licensing agency no later than the next business day after the video camera has been installed as described in Section 87061(k).

(2) Video cameras used to monitor or diagnose a medical condition of a child must not infringe on the privacy of other children sharing the bedroom.

~~(h)~~(i) A licensee shall ensure that, unless a nonminor dependent refuses such care, the nonminor dependents in the licensee's care receive first aid, medical, dental, vision, and mental health care, and related services, including arrangement for and/or provision of transportation to the nearest available services.

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Welfare and Institutions Code section 16521.5 provides in part:

> (a)A foster care provider, in consultation with the county case manager, shall be responsible for ensuring that adolescents, including nonminor dependents, as described in subdivision (v) of Section 11400, who remain in long-term foster care, as defined by the department, receive age-appropriate pregnancy prevention information to the extent state and county resources are provided.

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NOTE: Authority cited: Sections 1530, 1530.91, and 1562.01, Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1502.7, 1507, 1507.25, 1507.6, 1531, and 1562.01 Health and Safety Code; Sections 303, 369.5, 739.5, Sections 16001.9, and 16521.5, Welfare and Institutions Code; and Rule 5.640, California Rule of Court.

87075.1 EMERGENCY MEDICAL ASSISTANCE, INJECTIONS, AND SELF-ADMINISTRATION OF MEDICATIONS.

(a) The licensee shall ensure that staff who provide emergency medical assistance and injections to a child are trained as specified in Section 1507.25 of the Health and Safety Code.

(1) Prior to administering emergency medical assistance and injections to a child, a staff member shall obtain training from a licensed health care professional practicing within the professional's scope of practice as specified in Section 1507.25 of the Health and Safety Code.

(2) Staff members shall receive ongoing training as deemed necessary and appropriate by the licensed health care professional as specified in Section 1507.25 of the Health and Safety Code.

(3) Certification/Proof of/Documentation showing proof of the training set forth in paragraphs (1) and (2) shall be maintained in the staff member's personnel file and shall be made available to the department for review upon request.

(b) Emergency medical assistance and injections for severe diabetic hypoglycemia and anaphylactic shock may be provided as specified in Section 1507.25 of the Health and Safety Code.

(c) Subcutaneous injections of other medications, including insulin, as prescribed by the physician of a child, may be provided as specified in Section 1507.25 of the Health and Safety Code.

(d) Unless prohibited by court order, a child may self-administer medication or injections if the physician of a child gives permission. The licensee shall ensure that a child knows how to perform all of the following:

(1) Self-administer their medication and injections;

(2) Document when they self-administer their medication and injections; and

(3) Promptly give the medication back to designated staff, who will centrally store the medication so that it is not accessible to other children.

(e) The date, time, and dose of all injections, including those self-administered by a child, shall be documented by the staff giving the injection or by the staff providing care and supervision, as applicable, as specified in Section 1507.25 of the Health and Safety Code.

(f) The date, time, and results of glucose testing and monitoring shall be documented by the staff assisting with the testing as specified in Section 1507.25 of the Health and Safety Code.

(g) The licensee shall maintain all documentation of injections and glucose testing and monitoring as specified in subsections (e) and (f) in the child's record.

(1) All documentation of injections and glucose testing and monitoring shall be kept confidential consistent with Sections 87070 and 87070.1.

(h) This section does not supersede the requirements set forth in Sections 87070(b)(~~13~~15) and (~~14~~16) or Section 369.5 of the Welfare and Institutions Code, with respect to the administration of psychotropic medication to a dependent child of the court.

NOTE: Authority cited: Sections 1530, and 1562.01, Health and Safety Code; Reference: Sections 1501, 1502.7, 1507, 1507.25, 1507.6, 1531, and 1562.01 Health and Safety Code; Sections 303, 369.5, 739.5, Sections 16001.9, and 16521.5, Welfare and Institutions Code; and Rule 5.640, California Rule of Court.

87076 FOOD SERVICE.

(a) In addition to California Code of Regulations, Title 22, Section 80076, the following shall apply.

(b) Written menus shall be posted weekly in an area accessible to the staff and children.

(c) The licensee shall meet the following food supply and storage requirements:

(1) Supplies of staple nonperishable foods for a minimum of one week and fresh perishable foods for a minimum of two days shall be maintained on the premises.

(2) Freezers shall be large enough to accommodate required perishables and shall be maintained at a temperature of zero degrees F (-17.7 degrees C).

(3) Refrigerators shall be large enough to accommodate required perishables and shall maintain a maximum temperature of 45 degrees F (7.2 degrees C).

(4) Freezers and refrigerators shall be kept clean, and food storage shall permit the air circulation necessary to maintain the temperatures specified in (2) and (3) above.

(5) Kitchen appliances and utensils shall be made accessible to a child or nonminor dependent when they are participating in age or developmentally-appropriate activities related to food preparation, cooking, and other related kitchen and dining activities. The administrator or facility manager, or their responsible designee, shall:

(A) Apply the reasonable and prudent parent standard as specified in Section 87067, when allowing a child to use kitchen appliances and utensils for food preparation and cooking.

(B) Ensure that the child is properly trained to safely use the kitchen appliances and utensils.

(C) Not require a child to participate in meal preparation.

(6) As agreed upon with the licensee, a child shall have the opportunity to plan meals, grocery shop, and store and prepare food.

(d) Food served to the child shall meet any special dietary needs or practices, as documented in the needs and services plan for the child as reported by the child, or as recommended by the physician of a child.

NOTE: Authority cited: Sections 1530, 1530.91, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017,
Ch. 732, Sec. 126; AB 153, AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1531, and 1562.01, Health and Safety Code; and Sections 361.2 362.05(c)(2), 727 and 16001.9, Welfare and Institutions Code.

87077 PERSONAL SERVICES.

(a) The licensee shall ensure the following:

(1) Provision of basic laundry services, including but not limited to washing, drying, and ironing of children's personal clothing.

(A) Children shall be permitted to participate in the performance of such laundry services provided that the requirements specified in California Code of Regulations, Title 22, Section 80065(j) are met.

(2) Provision of an age-appropriate allowance to all children no less frequently than once per month.

(A) If the child is unable to manage their own money as documented in the child's needs and services plan, the allowance shall be provided in accordance with that plan.

(3) If the authorized representative considers the child incapable of money management, it must be specified in the needs and services plan.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1531, and 1562.01, Health and Safety Code; Section 16001.9, Welfare and Institutions Code.

87078 RESPONSIBILITY FOR PROVIDING CARE AND SUPERVISION.

(a) In addition to California Code of Regulations, Title 22, Section 80078, the following shall apply.

(b) The licensee shall provide those services identified in each child's or nonminor dependent's needs and services plan, Transitional Independent Living Plan, and/or individualized health care plan for each child with special health care needs, as applicable, as necessary to meet the child's or nonminor dependent's needs.

(c) The licensee shall ensure each child's attendance at an educational program in accordance with state law.

(d) Video cameras shall not be used in place of direct care and supervision of children.

~~(d)~~(e) Upon the request of a child or nonminor dependent, a licensee shall assist a child or nonminor dependent with developing the skills necessary for self-sufficiency. These skills may include, but are not limited to, the following:

(1) Financial literacy.

(2) Nutrition and healthy food choices, grocery shopping, and meal preparation.

(3) Identifying a suitable home and home maintenance.

(4) Child care.

(5) Automotive maintenance.

(6) Educational and career development, including the information specified in Section 87079.

(7) Obtaining medical, dental, vision, and mental health care.

(8) Access to community resources.

(9) Developing and reaching goals.

(10) Self-care, including performing a nonminor dependent's own laundry.

(11) Drug and alcohol abuse awareness and prevention.

(12) Safe sex and reproductive health information.

(13) Information on voter registration and voting, as applicable based on age.

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A licensee may access information that includes, but is not limited to, the following, in providing assistance to a nonminor dependent:

Financial Literacy
(1) Information on Financial Literacy for Young Adults
(2) Money Management for Youth

Nutrition and Healthy Food Choices, Grocery Shopping, and Meal Preparation
(1) Information on Healthy Eating on a Budget and Meal Planning

Child Care
(1) Find Child Care on CDSS' Community Care Licensing Division webpage

Obtaining Medical, Dental, Vision, and Mental Health Care
(1) Learn how to obtain and apply for medical Insurance - Covered CA
(2) Learn about and apply for Medi-Cal
(3) Information on the Former Foster Youth (FFY) Program

Drug and Alcohol Abuse Awareness and Prevention
(1) Substance Abuse and Mental Health Services Administration - Drug and Alcohol Facts and Awareness

Safe Sex and Reproductive Health Information
(1) Information on Family Planning, Access Care, and Treatment - Office of Family Planning

(2) Local Maternal, Child, and Adolescent Health Program (MCAH) - California Department of Public Health

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~~(e)~~(f) Unless restricted by the needs and services plan, Transitional Independent Living Plan,

or court order, a licensee shall encourage and support a child or nonminor dependent to seek, select, and maintain permanent connections between the child or nonminor dependent and their relatives, nonrelative extended family members, and other caring and committed adults.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 11465 and 17731, Welfare and Institutions Code; and Sections 1501, 1531, and 1562.01, Health and Safety Code.

87078.1 CORE SERVICES AND SUPPORTS.

(a) A short-term residential therapeutic program shall provide core services and supports to children and nonminor dependents as appropriate or necessary that are trauma-informed, culturally relevant, age and developmentally appropriate, and include the following:

(1) Medi-Cal specialty mental health services for children who meet medical necessity criteria for specialty mental health services.

(2) Transition support services for children, nonminor dependents, and families upon initial entry and placement changes and for families who assume permanency through reunification, adoption, or guardianship.

(3) Educational and physical, behavioral, and mental health supports, including extracurricular activities and social supports.

(4) Activities designed to support children and nonminor dependents in achieving a successful adulthood.

(5) Services to achieve permanency, including supporting efforts to reunify or achieve adoption or guardianship and efforts to maintain or establish relationships with parents, siblings, extended family members, Tribes, or others important to the child or nonminor dependent, as appropriate.

(b) Core services and supports shall be provided directly, secured through agreements with other agencies, or both.

(1) A short-term residential therapeutic program shall ensure all core services secured through agreements with other agencies are trauma-informed and culturally relevant.

(2) Documentation of agreements with other agencies shall be maintained by a short-term residential therapeutic program and be available upon request by the licensing agency.

(c) In addition to subsection (a), a short-term residential therapeutic program shall ensure that Indian children receive core services and supports in accordance with the Federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), its historical significance, the rights of

children covered by the act, and the best interests of Indian children as including culturally appropriate, child-centered practices that respect Native American history, culture, retention of Tribal membership, and connection to the Tribal community and traditions.

NOTE: Authority cited: Sections 1501, 1530, 1531, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017,
Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1530, 1531, and 1562.01 Health and Safety Code. Sections 4096 and 11462.01, Welfare and Institutions Code.

87078.2 TRAUMA-INFORMED INTERVENTIONS AND TREATMENT PRACTICES.

(a) A program that is trauma-informed shall include curricula, training, interventions, policies, practices and procedures which include the following:

(1) Written policies and procedures that explicitly include and support recognized trauma-informed principles, approaches, and trauma-specific interventions.

(2) Prevention services, interventions, practices, services and supports that demonstrate the following:

(A) Recognition and understanding of the trauma that children have experienced and how trauma impacts children;

(B) How observable behaviors will be identified and evaluated to assess the need for services;

(C) Maximization of physical and psychological safety for the child or nonminor dependent;

(D) How emergency interventions, including early interventions and de-escalation procedures, are trauma-informed;

(E) How individualized strategies for trauma-specific interventions address trauma's consequences and facilitate healing, and can be implemented in components including, but not limited to, the needs and services plan and treatment plan and how these strategies are implemented by direct care staff pursuant to provisions set forth in Section 87022.1(a)(2)(D); and

(F) Minimization of any potential for re-traumatization.

(3) Training of all staff that includes the types of trauma experienced by children and nonminor dependents, the effects and impact of abuse, neglect and trauma; how trauma may manifest itself in daily functioning and behaviors; how to provide care and supervision that is trauma-informed; how to facilitate healing; and how to reduce risk of re-traumatization.

(4) Support for children and nonminor dependents, their families, and caregivers, in identifying and accessing services and supports to heal from trauma, reduce the risk of re-traumatization, and foster well-being and resiliency. This may include but not be limited to:

(A) Development of coping, communication and self-regulation skills;

(B) Development of independent living skills that foster self-esteem, self-advocacy and empowerment;

(C) Training on how to access specialty, health and community services;

(D) Extracurricular activities;

(E) Healing practices;

(F) Engagement with family and loved ones;

(G) Maintaining connections to important people in the child's life; and

(H) Ensuring the provision of a positive, safe physical and emotional environment, as well as services which are strengths-based and promote positive development.

(5) Evidence-based or informed screening or assessment tools to identify trauma history and trauma-related symptoms or problems, and how that history is included in the child's needs and services plan or treatment plan within 30 days of admission.

(6) Procedures for how the facility will access and make referrals for evidence-based and/or promising services and practices that are trauma-informed.

(7) Policies and procedures for collaboration with Child Welfare, Probation, County Mental Health, Child and Family Teams, and outside partners to ensure effective and consistent provision of care and services that are trauma-informed.

(8) Procedures for maintaining consistency with Transitional Independent Living Plans~~S~~.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1522.45, and 1562.01, Health and Safety Code.

87079 PLANNED ACTIVITIES.

(a) The licensee shall develop, maintain, and implement a written plan to ensure that indoor and outdoor activities which include but are not limited to the following are provided for all children:

(1) Activities that require group interaction;

(2) Planned recreational activities to encourage socialization;

(3) Physical activities, including but not limited to games, sports and exercise.

(4) Appropriate use of unstructured leisure time;

(5) Educational activities, including attendance at an educational program in accordance with state law, and supervision of afterschool study as specified in Section 87078(~~d~~c);

(6) Educational services and remediation;

(7) Activities which meet the training, money management, and personal care, grooming needs, and any other independent living skills identified in the children's needs and services plans, as specified in Section 87068.2(b)(3) through (5) and Section 87068.22(c)(1);

(8) Pre-vocational or vocational counseling;

(9) The development of community support systems for children to maximize utilization of non-mental health community services and other resources; and

(10) Use of the residential environment to assist children in the acquisition, testing, and refinement of community living and interpersonal skills;

(11) Access to computer technology and the internet, consistent with the child's age, maturity, developmental level, court order, and child and family team decision.

(b) Where appropriate, the certificate holder may contract with and supervise a volunteer program to assist with, or expand, mental health treatment services and scheduled activities required pursuant to this Section.

(c) Each child who is capable shall be given the opportunity to participate in the planning, preparation, selection, conduct, cleanup, and critique of planned activities.

(d) The administrator or facility manager, or their designee, shall:

(1) Provide opportunity for and encourage a child to participate in age or developmentally-appropriate extracurricular, enrichment, cultural, and social activities as specified in Welfare and Institutions Code sections 362.05 and 727.

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Extracurricular, enrichment, cultural, and social activities may include, but are not limited to, the following:

(1) Worship services and activities of the child's choice.
(2) Community events, including but not limited to, concerts, tours, dances, plays, and celebrations of special events.
(3) Outdoor adventure clubs.
(4) Sports.
(5) School or after-school activities such as band, dances, and field trips.
(6) Leisure time such as bike riding, socializing with friends, shopping, and going to the movies.
(7) Farm and gardening activities.
(8) Overnight activities lasting one or more days such as sleepovers with friends.
(9) Having visitors in the home.
(10) Use of computer equipment
(A) Computer equipment made available to other children in the household should also be available to a "child" of similar age and maturity.
(B) The caregiver is not required to incur a cost to provide computer availability.
(11) Babysitting.
(12) Dating.
(13) Access to information regarding obtaining a California Driver's License.

Welfare and Institutions Code section 362.05 provides in part:

(a) (1) Every child adjudged a dependent child of the juvenile court shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities,

including, but not limited to, access to computer technology and the Internet. A state or local regulation or policy shall not prevent, or create barriers to,participation in those activities. Each state and local entity shall ensure that private agencies that provide foster care services to dependent children have policies consistent with this section and that those agencies promote and protect the ability of dependent children to participate in age-appropriate extracurricular, enrichment, and social activities, including, but not limited to, access to computer technology and the Internet. A short-term residential therapeutic program or a group home administrator, a facility manager, or his or her responsible designee, and a caregiver, as defined in paragraph (1) of subdivision (a) of Section 362.04, shall use a reasonable and prudent parent standard in determining whether to give permission for a child residing in foster care to participate in extracurricular, enrichment, and social activities, including, but not limited to, access to computer technology and the Internet. A short-term residential therapeutic program or a group home administrator, a facility manager, or his or her responsible designee, and a caregiver shall take reasonable steps to determine the appropriateness of the activity in consideration of the child's age, maturity, and developmental level.

Welfare and Institutions Code section 727 provides in part:

(a)(4)(F)(i) Every minor adjudged a ward of the juvenile court shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities. A state or local regulation or policy shall not prevent, or create barriers to, participation in those activities. Each state and local entity shall ensure that private agencies that provide foster care services to wards have policies consistent with this section and that those agencies promote and protect the ability of wards to participate in age-appropriate extracurricular, enrichment, and social activities. A short-term residential therapeutic program or a group home administrator, a facility manager, or his or her responsible designee, and a caregiver, as defined in paragraph (1) of subdivision (a) of Section 362.04, shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04, in determining whether to give permission for a minor residing in foster care to participate in extracurricular, enrichment, and social activities. A short- term residential therapeutic program or a group home administrator, a facility manager, or their responsible designee, and a caregiver shall take reasonable steps to determine the appropriateness of the activity taking into consideration the minor's age, maturity, and developmental level. For every

minor placed in a setting described in subparagraphs (A) through (E), inclusive, age-appropriate extracurricular, enrichment, and social activities shall include access to computer technology and the internet.

(ii) A short-term residential therapeutic program or a group home administrator facility manager, or his or her responsible designee, is encouraged to consult with social work or treatment staff members who are most familiar with the minor at the group home or short-term residential therapeutic program in applying and using the reasonable and prudent parent standard.

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(2) Apply the reasonable and prudent parent standard as specified in Section 87067, when determining whether to allow a child to participate in age-appropriate and developmentally-appropriate extracurricular, enrichment, cultural and social activities.

(e) A schedule of the planned activities shall be posted on at least a weekly basis in a central facility location readily accessible to children, relatives, and representatives of placement.

(1) Copies of schedules shall be retained in the facility's files for at least six months.

(f) The licensee shall allow access to existing information regarding available vocational and postsecondary educational options as specified in Welfare and Institutions Code section 16001.9(a)(28). The information may include, but is not limited to:

(1) Admission criteria and coursework necessary for universities, community colleges, trade, career, technical, or vocational schools/programs and financial aid information for these schools.

(2) Informational brochures on postsecondary or vocational schools/programs, and specialized programs for current and former foster children available at the University of California, the California State University, and the California Community Colleges.

(3) Campus tours.

(4) Internet research on postsecondary or vocational schools/programs, sources of

financial aid, independent living skills program offerings, specialized programs for current and former foster children available at the University of California, the California State University, and the California Community Colleges, and other local resources to assist current and former foster children.

(5) School-sponsored events promoting postsecondary or vocational schools/programs.

(6) Financial aid information, including information about federal, state and school-specific aid, state and school-specific scholarships, grants and loans, as well as aid available specifically to current or former foster children and contact information for the Student Aid Commission.

(g) Upon the request of a child, a licensee shall assist the child in obtaining the following information:

(1) Information specified in Section 87079(f)(1) through (f)(6).

(2) Informational brochures on employment-related programs.

(3) Internet research on trade, vocational, or professional career options.

(4) Community or school-sponsored events promoting volunteerism, internships, or employment.

(5) Career options, requirements, and salary information for trade, vocational, or professional careers.

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A licensee may access information that includes, but is not limited to, the following, in providing assistance to a nonminor dependent:

Attending College
(1) Application for admission.
(A) Application for California Community Colleges
(B) Application for California State Universities
(C) Application for Universities of California

(2) California Community Colleges – Contacting a Foster Youth Success Initiatives

Liaison
(3) Financial aid.
(A) Free Application for Federal Student Aid (FAFSA)
(B) Application for California College Promise Grant (formerly Board of Governor's Fee Waiver for Community Colleges)
(C) California Chafee Grant for Foster Youth Information
(D) The California Kids Investment and Development Savings Program (CalKIDS)
(4) Participation in Extended Opportunity Programs and Services (EOPS) and Disability Support Programs and Services (DSPS).
(5) Placement in college courses.
(6) College orientation and course planning.
(7) Enrollment.
(8) Payment of fees.
(9) Access to miscellaneous higher education resources.
(A) General college planning information - U.S. Department of Education and Plan for College - U.S. Department of Education
(B) Find a California Community College
(C) California College Pathways - Programs for Foster Youth Attending College

Resources for Foster Youth
(1) College and Career.
(A) ACT/SAT prep and assistance, college, career and job guidance
Low-Cost Technology
(1) Laptops for Foster Youth
(2) Low-Cost Cell Phone Options for Foster Youth, Cell Phones and Laptops for Foster Youth, Foster Youth in California and Cell Phones Needs and California LifeLine Foster Youth Program.
(3) Internet Access

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NOTE: Authority cited: Sections 1530, 1530.91, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1531, 1522.44, and 1562.01, Health and Safety Code; Sections 361.2 362.04, 362.05, 362.05(c)(2), 727 and 16001.9, Welfare and Institutions Code; and AB 2096, Stats. 2008, Ch. 483.

87080 RESIDENT COUNCILS.

(a) Each facility, at the request of a majority of the children or nonminor dependents residing there, shall assist its residents in establishing and maintaining a resident-oriented facility council.

(1) The licensee shall provide space and post notice for meetings, and shall provide assistance in attending council meetings for those residents who request it.

(A) If residents are unable to read the posted notice because of a physical or functional disability, the licensee shall notify the residents in a manner appropriate to that disability including but not limited to verbal announcements.

(2) The licensee shall document notice of meetings, meeting times, and recommendations from council meetings.

(3) In order to permit a free exchange of ideas, at least part of each meeting shall be conducted without the presence of any facility personnel.

(4) Residents shall be encouraged, but shall not be compelled to attend council meetings.

(b) The licensee shall ensure that in providing for resident councils the requirements of Section 1520.2 of the Health and Safety Code are observed.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Section 1520.2, and 1562.01, Health and Safety Code.

87081 CONTINUOUS QUALITY IMPROVEMENT.

(a) A short-term residential therapeutic program shall develop written policies, procedures, and practices concerning the facility's continuous quality improvement (CQI) that meets the requirements of this Section and as required in the plan of operation pursuant to Section 87022.

(b) A short-term residential therapeutic program's CQI shall be developed based on the overall mission, vision, and values of the facility and the active inclusion and participation of staff at all levels of the facility, children, nonminor dependents, families, and community resources.

(1) The active inclusion and participation shall include a process, described in the plan of operation, for getting direct input from the children, as age and developmentally appropriate, to inform program development and improvement.

(c) A short-term residential therapeutic program's CQI shall:

(1) Ensure frequent review, documentation, and, if necessary, adjustment of the child's needs and services plan and treatment plan as provided in Section 87068.3. The frequency of review, documentation, and adjustment to the child's needs and services plan or treatment plan shall be conducted on a monthly basis or as frequently as possible.

(2) Adopt specific outcomes, indicators, and practice standards, including outcomes associated with trauma-informed and culturally relevant services.

(3) Include collecting and reviewing qualitative and quantitative data and information related to identified outcomes, indicators, and practice standards. This may include, but is not limited to, the following:

(A) Feedback from children, nonminor dependents, families, and staff at all levels.

(B) Data about staff, including training, workload, and performance.

(C) Peer-review with a short-term residential therapeutic program that serves a similar population or a panel.

1. The peer review panel may be formed based on served populations, facility size, location, or any other criteria that can serve the purpose of the peer-review panel.

(4) Include reviewing, analyzing, and interpreting qualitative and quantitative data.

(5) Utilize data review, analyses, and interpretation to inform and improve policies, practices, and programs.

(6) Include policies and procedures for evaluation of the short-term residential therapeutic program's outcomes and results.

(7) Include data on the numbers and types of complaints received and, if applicable, the resolution of each complaint.

(d) The short-term residential therapeutic program shall work collaboratively with the Department on the CQI program by being timely and responsive to Department meeting requests, correspondence, and other similar requests by the Department related to CQI.

NOTE: Authority cited: Sections 1501, 1530, 1531, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1530, 1531, and 1562.01 Health and Safety Code.

ARTICLE 7. PHYSICAL ENVIRONMENT

87087 BUILDINGS AND GROUNDS.

(a) In addition to California Code of Regulations, Title 22, Section 80087 the following shall apply.

(b) Bedrooms shall meet, at a minimum, the following requirements:

(1) Not more than two children shall share a bedroom.

(A) Should the licensing agency grant an exception pursuant to California Code of Regulations, Title 22, Section 80024, the following apply:

1. The licensee has conducted an assessment and determined that the children are compatible and in agreement.
2. Sharing a bedroom is consistent with the children's needs and services plans.

(2) Bedrooms shall be large enough to allow for easy passage and comfortable use of any required assistive devices, including but not limited to wheelchairs, between beds and other items of furniture.

(3) Children of different sexes shall not share a bedroom unless:

(A) A minor parent is sharing a bedroom with the minor parent's child of the opposite sex.

(B) Each child is under five years of age, or

(C) A licensee is permitting a child to share a bedroom consistent with their gender identity regardless of the gender or sex listed on the court or child welfare

(4) No room commonly used for other purposes shall be used as a bedroom.

(A) Such rooms shall include but not be limited to halls, stairways, unfinished attics or basements, garages, storage areas, and sheds or similar detached buildings.

(5) No bedroom shall be used as a public or general passageway to another room, bath or toilet.

(6) If two children have been sharing a bedroom and one of them turns 18 they may continue to share the bedroom as long as they remain compatible and the licensing agency has granted an exception pursuant to California Code of Regulations, Title 22, Section 80024 and complies with Section 87087(b)(1)(A).

(7) Private bedrooms, separate from the children's bedrooms shall be provided for staff or other adults who sleep at the facility.

(A) Staff bedrooms are to be located near the children's sleeping area.

(8) Subsections (1), (2), (3), (4), (5), and (6) apply to all bedrooms used by all children in the facility including children who are members of the licensee's family, children of staff members and children in placement.

(9) Subsections (4), (5) and (7) apply to all bedrooms used by the licensee(s), staff and any other adults in the facility.

(c) The licensee shall prohibit smoking in the facility and on the grounds of the facility.

(d) Every short-term residential therapeutic program shall have one or more carbon monoxide detectors in the facility that meets the standards established in Health and Safety Code Chapter 8 (commencing with Section 13260) of Part 2 of Division 12.

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Health and Safety Code Section 13260 provides:

> "This chapter shall be known and may be cited as the Carbon Monoxide Poisoning Prevention Act of 2010."

Health and Safety Code Section 13261 provides:

> "The Legislature finds and declares all of the following:
>
> (a) According to the American Medical Association, carbon monoxide is the leading cause of accidental poisoning deaths in the United States. The federal

Centers for Disease Control and Prevention estimate that carbon monoxide kills approximately 500 people each year and injures another 20,000 people nationwide.
(b) According to the United States Environmental Protection Agency, a person cannot see or smell carbon monoxide. At high levels carbon monoxide can kill a person in minutes. Carbon monoxide is produced whenever any fuel, such as gas, oil, kerosene, wood, or charcoal, is burned.
(c) The State Air Resources Board estimates that every year carbon monoxide accounts for between 30 and 40 avoidable deaths, possibly thousands of avoidable illnesses, and between 175 and 700 avoidable emergency room and hospital visits.
(d) There are well-documented chronic health effects of acute carbon monoxide poisoning or prolonged exposure to carbon monoxide, including, but not limited to, lethargy, headaches, concentration problems, amnesia, psychosis, Parkinson's disease, memory impairment, and personality alterations.
(e) Experts estimate that equipping every home with a carbon monoxide device would cut accident-related costs by 93 percent. Eighteen states and a number of large cities have laws mandating the use of carbon monoxide devices.
(f) Carbon monoxide devices provide a vital, highly effective, and low-cost protection against carbon monoxide poisoning and these devices should be made available to every home in California.
(g) The Homeowners' Guide to Environmental Hazards prepared pursuant to Section 10084 of the Business and Professions Code is an important educational tool and should include information regarding carbon monoxide. It is the intent of the Legislature that when the booklet is next updated as existing resources permit, or as private resources are made available, it be updated to include a section on carbon monoxide."

Health and Safety Code Section 13262 provides:

"For purposes of this chapter, the following definitions shall apply:
(a) 'Carbon monoxide device' means a device that meets all of the following requirements:
(1) A device designed to detect carbon monoxide and produce a distinct, audible alarm.
(2) A device that is battery powered, a plug-in device with battery backup, or a device installed as recommended by Standard 720 of the National Fire Protection Association that is either wired into the alternating current power line of the dwelling unit with a secondary battery backup or connected to a system via a panel.
(3) If the device is combined with a smoke detector, the combined device shall comply with all of the following:
(A) The standards that apply to carbon monoxide alarms as described in this chapter.
(B) The standards that apply to smoke detectors, as described in Section 13113.7.

(C) The combined device emits an alarm or voice warning in a manner that clearly differentiates between a carbon monoxide alarm warning and a smoke detector warning.
(4) The device has been tested and certified, pursuant to the requirements of the American National Standards Institute (ANSI) and Underwriters Laboratories Inc. (UL) as set forth in either ANSI/UL 2034 or ANSI/UL 2075, or successor standards, by a nationally recognized testing laboratory listed in the directory of approved testing laboratories established by the Building Materials Listing Program of the Fire Engineering Division of the Office of the State Fire Marshal of the Department of Forestry and Fire Protection.
(b) 'Dwelling unit intended for human occupancy' means a single-family dwelling, factory-built home as defined in Section 19971, duplex, lodging house, dormitory, hotel, motel, condominium, stock cooperative, time-share project, or dwelling unit in a multiple-unit dwelling unit building or buildings. 'Dwelling unit intended for human occupancy' does not mean a property owned or leased by the state, the Regents of the University of California, or a local governmental agency.
(c) 'Fossil fuel' means coal, kerosene, oil, wood, fuel gases, and other petroleum or hydrocarbon products, which emit carbon monoxide as a byproduct of combustion."

Health and Safety Code Section 13263 provides:

"(a) (1) The State Fire Marshal shall develop a certification and decertification process to approve and list carbon monoxide devices and to disapprove and delist previously approved devices, if necessary. The certification and decertification process shall include consideration of effectiveness and reliability of the devices, including, but not limited to, their propensity to record false alarms. The certification and decertification process shall include a review of the manufacturer's instructions and shall ensure their consistency with building standards applicable to new construction for the relevant type of occupancy with respect to number and placement.
(2) The State Fire Marshal shall charge an appropriate fee to the manufacturer of a carbon monoxide device to cover his or her costs associated with the approval and listing of carbon monoxide devices.
(b) A person shall not market, distribute, offer for sale, or sell any carbon monoxide device in this state unless the device and the instructions have been approved and listed by the State Fire Marshal."

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(e) In every situation where children share a bedroom, the licensee shall document that the bedroom sharing arrangement ensures the health and safety of each child and that the

children are compatible. When considering compatibility, a licensee shall consult with children in their care, in an age and developmentally appropriate manner, regarding the child's sexual orientation and gender identity and what information the child wishes to disclose and to whom. A licensee shall not disclose information about the child's sexual orientation and/or gender identity and expression against the child's wishes, unless disclosure is required to protect the child's health and safety or compelled to do so by law or court order. This documentation shall be maintained in the child's record.

(f) A nonminor dependent shall have access to the following items:

(1) Household kitchen knives and appliances for meal preparation.

(2) Medications used by the nonminor dependent for self-administration.

(3) Disinfectants and cleaning solutions for use in household chores.

(g) In permitting a nonminor dependent to have access to the items specified in subsection (f)(1) through (f)(3), a licensee shall ensure the safety of a nonminor dependent and others in the facility is maintained.

NOTE: Authority cited: Sections 1502.8, 1530, and 1562.01, Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1503.2, 1530.7, 1531, 1562.01, 13260, 13261, 13262, and 13263, Health and Safety Code; and *"The Health Consequences of Involuntary Exposure to Tobacco Smoke": A Report of the Surgeon General (2006);* Section 16001.9, Welfare and Institutions Code.

87087.1 ADDITIONAL BUILDINGS AND GROUNDS REQUIREMENTS FOR SPECIALIZED SHORT-TERM RESIDENTIAL THERAPEUTIC PROGRAMS.

(a) In addition to Section 87087, the following shall apply.

(b) Areas in the home, including bedrooms, bathrooms, toilets, dining areas, passageways and recreational spaces used by a child with special health care needs shall be large enough to accommodate any medical equipment needed by the child.

(1) Bedrooms occupied by children with special health care needs shall be large enough to allow the storage of each child's personal items and any required medical equipment or assistive devices, including wheelchairs, adjacent to the child's bed.

(A) The bedroom shall be large enough to permit unobstructed bedside ministration of medical procedures and medications.

(c) Notwithstanding Section 87087(b)(1), a bedroom used by a child with special health care needs shall not be shared with another minor residing in the facility if the child's need for medical services or the child's medical condition would be incompatible with the use and enjoyment of the bedroom by each minor.

NOTE: Authority Cited: Section 17730, Welfare and Institutions Code; and Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Section 17732, Welfare and Institutions Code; Section 1562.01, Health and Safety Code.

87087.2 OUTDOOR ACTIVITY SPACE.

(a) Children shall have access to safe outdoor activity space.

(1) Outdoor activity space meeting the requirement of (a) above shall include but not be limited to activity centers and public parks.

(2) A sketch of the physical plant as required in the plan of operation pursuant to Section 87022, shall include the location(s) of outdoor activity space.

(3) The outdoor activity space shall not include any area made inaccessible by fencing pursuant to California Code of Regulations, Title 22, Section 80087(e).

(4) Where natural or man-made hazards such as canals, cliffs, condemned buildings, creeks, ditches, lakes, ocean fronts, mines, power lines, quarries, rivers, ravines, swamps, watercourses, and areas subject to flooding lie on or adjacent to the facility premises, the outdoor activity space shall be inaccessible to such hazards.

(A) Where a fence or wall is used to make the outdoor activity space inaccessible, the requirements of California Code of Regulations, Title 22, Section 80087(e)(1) shall be met.

(5) The administrator or facility manager, or their responsible designee, shall apply the reasonable and prudent parent standard, as specified in Section 87067, when determining whether to allow a child to have access to fish ponds, fountains, and similar bodies of water.

(A) The licensee shall ensure safeguards that include, but are not limited to, familiarity of the surroundings, and staff trained in water safety as specified in California Code of Regulations, Title 22, Section 80065(e)(2).

(b) As a condition of licensure, the areas around and under high climbing equipment, swings, slides and other similar equipment shall be cushioned with material which absorbs falls.

(1) Sand, woodchips, pea gravel or rubber mats commercially produced for this purpose, shall be permitted.

(2) The use of cushioning material other than that specified in (1) above shall be approved by the licensing agency in advance of installation.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1531, and 1562.01, Health and Safety Code; and Sections 361.2(k)(2), 362.04, 362.05 and 727, Welfare and Institutions Code.

87087.3 INDOOR ACTIVITY SPACE.

(a) As a condition of licensure, there shall be common rooms, including a living room, dining room, den or other recreation/activity room, which provide the necessary space and/or separation to promote and facilitate the program of planned activities specified in Section 87079 and to prevent such activities from interfering with other functions.

(1) At least one such room shall be available to children for relaxation and visitation with friends and/or relatives.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1531, and 1562.01, Health and Safety Code.

87088 FIXTURES, FURNITURE, EQUIPMENT, AND SUPPLIES.

(a) In addition to California Code of Regulations, Title 22, Section 80088, the following shall apply.

(b) As a condition of licensure, toilets, wash basin, bath and shower fixtures shall, at a minimum, meet the following requirements:

(1) There shall be at least one toilet and wash basin maintained for each six (6) persons residing in the facility, including children and personnel.

(2) There shall be at least one shower or bathtub maintained for each ten (10) persons residing in the facility, including children and personnel.

(3) Toilets and bathrooms shall be located so that children do not have to go out-of-doors to have access to such accommodations.

(4) Individual privacy shall be provided in all toilet, bath, and shower areas.

(c) The licensee shall provide and make readily available to each child the following furniture, equipment and supplies necessary for personal care and maintenance of personal hygiene:

(1) An individual bed maintained in good repair; equipped with good springs and a clean mattress; and supplied with pillow(s) which are clean and in good repair.

(A) No short-term residential therapeutic program shall have more beds for children's use than required for the maximum capacity approved by the licensing agency.

(1) This requirement shall not apply to bed(s) made available for illness or separation of others in an isolation room or area as specified in Section 87075(g).

(B) Fillings and covers for mattresses and pillows shall be flame retardant.

(C) The use of cots, trundle, or bunk beds shall be prohibited.

(2) Clean linen in good repair, including: lightweight, warm blankets and bedspreads; top and bottom bed sheets; pillow cases; mattress pads; and bath towels, hand towels and wash cloths.

(A) The quantity of linen provided shall permit changing the linen at least once each week, or more often when indicated to ensure that clean linen is in use by children at all times.

(B) Use of common towels and wash cloths shall be prohibited.

(3) Items used to maintain basic personal hygiene practices, including but not limited to shampoo, feminine napkins and tampons, nonmedicated soap, toilet paper, toothbrush, toothpaste, and comb.

(4) The licensee shall provide each child storage space for their private use including, but not limited to:

(A) Portable or permanent closets and drawer space in the child's bedroom to accommodate the child's clothing and personal belongings.

1. A minimum of two drawers or eight cubic feet (.2264 cubic meters) of drawer space, whichever is greater, shall be provided for each child.

(d) The administrator or facility manager, or their responsible designee, shall:

(1) Apply the reasonable and prudent parent standard, as specified in Section 87067, when determining whether a child should have access to disinfectants and cleaning solutions; and

(2) Ensure that the child is properly trained to safely use disinfectants and cleaning solutions.

(e) The following facilities shall maintain a signal system which meets the requirements specified in (e) and (f) below. Such system shall be used by children to summon staff during an emergency:

(1) All facilities with a licensed capacity of 31 or more children.

(2) All facilities having separate floors and not providing full-time staff on each floor whenever children are present.

(3) All facilities having separate buildings and not providing full-time staff in each building whenever children are present.

(f) The signal system shall have the ability to meet the following requirements:

(1) Operation from each child's living unit.

(2) Transmission of a visual and/or auditory signal to a central location, or production of an auditory signal at the specific child's living unit which is loud enough to summon staff.

(3) Identification of the specific child's living unit from which the signal originates.

(g) Facilities having more than one wing, floor or building shall be allowed to have a separate signal system in each component provided that each such system meets the requirements specified in (e) above.

(h) The licensee shall provide and maintain the supplies, equipment and reading material necessary to implement the planned activities.

(i) The licensee shall provide and make readily available to each child a well-lighted desk or table space and necessary supplies, including reference materials, for school-related study.

(j) Construction or other equipment, including but not limited to incinerators and air conditioning equipment, shall be made inaccessible to children.

NOTE: Authority cited: Sections 1530, 1530.91, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1531, and 1562.01, Health and Safety Code; and Sections 361.2(k)(2),362.04, 362.05 and 727, and 16001.9, Welfare and Institutions Code.

87088.1 VIDEO CAMERAS.

(a) Video cameras, as defined in Section 87001(v)(3), may be utilized on the exterior and interior of the facility provided the requirements in (a)(1) through (11) are met.

(1) The licensee shall ensure that the use of video cameras does not infringe on a child's constitutional right to privacy, or their personal rights, including, but not limited to:

(A) The right to live in a safe, healthy, comfortable home, where they are treated with respect; and, if they are an Indian child, to live in a home that upholds the prevailing social and cultural standards of the child's Indian community, including, but not limited to, family, social, and political ties, pursuant to Section 87072(c)(1).

(B) The right to communicate privately with social workers, probation officers, attorneys, service providers, foster youth advocates, Court Appointed Special Advocates (CASAs), education rights holder if other than the parent(s), and representatives designated by the child's Indian Tribe to participate in the juvenile court, if applicable, pursuant to Section 87072(c)(14).

(C) The right to visit and contact siblings, family members, and relatives privately, unless prohibited by court order, pursuant to Section 87072(c)(7).

(D) The right to make, send, and receive confidential telephone calls and other electronic communications, unless prohibited by court order, pursuant to Section 87072(c)(12).

(E) The right to maintain privacy regarding sexual orientation and gender identity and expression, unless the child permits the information to be disclosed, or disclosure is required to protect their health and safety, or disclosure is compelled by law or a court order, pursuant to Section 87072(c)(37).

(F) The right to speak to representatives of the Department's Community Care

Licensing Division and the State Foster Care Ombudsperson confidentially, pursuant to Section 87072(c)(17).

(2) Exterior video cameras shall not be pointed into windows or towards an area where children meet with visitors.

(3) Interior video cameras shall be limited to common areas including kitchens, hallways, living rooms, dining rooms, recreation rooms and other shared spaces, and shall not be pointed at any areas within the facility where there is an expectation of privacy.

(A) Video cameras are prohibited in bathrooms, bedrooms or in any location designated as private for visits or conversations.

(B) Video cameras may be used in a bedroom to monitor or diagnose a child's medical condition under limited circumstances as described in Section 87075(h).

(4) Baby monitors must only be used for their intended purpose of monitoring the safety of an infant, as defined in Section 80001(i)(1), in a crib.

(A) When a baby monitor with a camera is used in a bedroom, at no time shall the monitor be pointed in a direction that would violate the child's privacy. This shall include but is not limited to being able to view the child during diaper changing or bathing.

(B) Baby monitors must not infringe on the privacy of other children sharing the bedroom.

(5) Other than baby monitors, all video cameras – both interior and exterior – must have their audio disabled, muted or turned down so that they cannot capture conversations.

(6) Children, authorized representatives and placement workers should be notified of the purpose and location of all video cameras prior to the child's placement in

the facility, or while the child is being informed of their personal rights upon placement pursuant to Section 87072(b)(1)(a).

(7) All visitors must be notified of the location of all video cameras either verbally, through written notification or visible signage posted at the facility.

(8) A licensee must include the information specified in Section 87022.1(b)(19) in their program statements.

(9) Video recordings must be preserved and maintained by the facility for a minimum of 60 days. If the Department notifies the licensee that specified footage must be retained for a longer period of time, or if the footage relates to a death, an injury requiring medical treatment, or alleged abuse, the video recordings shall be retained by the facility until the licensee is notified otherwise by the Department.

(10) Video recordings must be kept secure and accessible only to authorized staff positions identified in the program statement.

NOTE: Authority cited: Section 1530, and 1562.01(q) Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1522.45 and 1531, and 1562.01 Health and Safety Code, and Section 16001.9, Welfare and Institutions Code; CA Const. art. I, Declaration of Rights.

87088.3 OUTDOOR ACTIVITY EQUIPMENT.

(a) Outdoor activity equipment shall be securely anchored to the ground unless it is portable by design.

(1) Equipment shall be maintained in a safe condition free of sharp, loose, or pointed parts.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1501, 1531, and 1562.01, Health and Safety Code.

ARTICLE 8. ACCREDITATION, MENTAL HEALTH AND NURSING SERVICES

87089 NATIONAL ACCREDITATION.

(a) A short-term residential therapeutic program shall obtain national accreditation from an entity identified by the Department pursuant to Welfare and Institutions Code Section 11462(b)(6)(A).

(b) The short-term residential therapeutic program shall have up to 24 months from the date of provisional licensure to obtain accreditation.

(c) The short-term residential therapeutic program applicant shall submit documentation of accreditation, a copy of its application for accreditation, or a declaration of accreditation status with its application for licensure.

(1) A declaration of accreditation status shall include the accrediting entity chosen and a description of steps the applicant has taken to acquire accreditation.

(d) The short-term residential therapeutic program shall provide documentation to the Department reporting its accreditation status at 12 months and 18 months after the date of provisional licensure.

(e) The licensing agency may request additional information from the short-term residential therapeutic program regarding its accreditation status.

(f) A short-term residential therapeutic program shall provide a copy of its final accreditation summary report to the licensing agency within 30 days of its release date.

(g) If a corrective action is required by the accrediting entity in response to the final accreditation summary report, or at any other time following accreditation, a short-term residential therapeutic program shall provide documentation of its corrective action to the Department within 30 days of its completion date.

(h) If a short-term residential therapeutic program is placed on a probationary, suspended or revoked accreditation status, the licensee shall notify the Department within 10 business days of receiving notification from the accrediting entity.

NOTE: Authority cited: Sections 1501, 1530, 1531, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1562.01, Health and Safety Code; Section 11462, Welfare and Institutions Code.

87089.1 MENTAL HEALTH.

(a) A short-term residential therapeutic program shall demonstrate the ability to meet the mental health service needs of children.

(b) A short-term residential therapeutic program shall have up to 12 months from the date of obtaining a provisional license to obtain mental health program approval from the California Department of Health Care Services, or from a delegated county Mental Health Plan. If the facility requires additional time to obtain mental health program approval, the licensing agency may extend the provisional license for up to an additional twelve months as specified in Section 87030. A short-term residential therapeutic program that has obtained a permanent license shall maintain the mental health program approval in good standing.

(c) A short-term residential therapeutic program shall provide documentation of the mental health program approval to the licensing agency and shall identify which specialty mental health services the facility is certified and contracted to provide.

(d) A short-term residential therapeutic program shall provide or ensure access to mental health services, including specialty mental health services and mental health supports that meet short and long term mental and behavioral health goals and treatment as identified by the qualified individual, as appropriate to the needs of the child or nonminor dependent in its care. This shall include all of the following:

(1) Ensuring the needs and services plan of each child or nonminor dependent reflects any mental health needs identified in the case plan, treatment plan, or any available mental health assessment.

(2) Collaborating with the Child and Family Team, consistent with the case plan.

(3) Ensuring continuity of care, services, and treatment as a child moves from their short-term residential therapeutic program placement to home-based family care or to a permanent living situation through reunification, adoption, or guardianship, in accordance with child's case plan or treatment plan.

(4) Documenting the child's ability to access mental health services identified in the needs and services plan, or efforts made by the short term residential therapeutic program to ensure access to identified mental health services, including utilization of any existing grievance processes for accessing services.

(e) A short-term residential therapeutic program without a current mental health program approval shall not directly provide specialty mental health services.

(f) A short-term residential therapeutic program without a current mental health program approval shall provide children in its care access to mental health services, including specialty mental health services and mental health supports that meet short and long term mental and behavioral health goals and treatment needs as identified by the qualified individual, as described in its program statement and as appropriate to the needs of the child and nonminor dependent.

(g) A short-term residential therapeutic program providing care and supervision to children diagnosed by a physician, psychologist, or licensed clinical social worker as a person with a mental health disability ~~mentally disordered~~ shall make provision for at least monthly consultation from a psychiatrist, or clinical psychologist, or licensed clinical social worker regarding the program of services, or more often as appropriate to the needs of the child or nonminor dependent.

(1) The short-term residential therapeutic program shall maintain on file copies of reports signed by any such consultation, noting the types and hours of services provided.

NOTE: Authority cited: Sections 1501, 1530, 1531, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017,
Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1506.1, and 1562.01, Health and Safety Code; Section 11462.01, 11462 and 4096.5 Welfare and Institutions Code.

87089.2 NURSING SERVICES.

(a) On and after October 1, 2021, a short-term residential therapeutic program shall ensure the availability of licensed nursing staff as specified in subdivision (n) of Section 1562.01 of the Health and Safety Code.

(b) A short-term residential therapeutic program shall not be required to acquire nursing staff solely through means of a direct employer to employee relationship.

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Health and Safety Code Section 1562.01(n) provides:

> "(n) (1) On and after October 1, 2021, a short-term residential therapeutic program shall ensure the availability of licensed nursing staff, which may include the nursing resources established pursuant to Section 4096.55 of the Welfare and Institutions Code.
> (2) Nursing staff shall be onsite according to the treatment model of the short-term residential therapeutic program and as otherwise required by the needs of any child residing in the facility.
> (3) Nursing staff shall be available 24 hours a day, 7 days a week, and shall provide care within the scope of their practice.
> (4) If a child who is placed in a short-term residential therapeutic program by a county placing agency requires regular onsite nursing care and does not require inpatient care in a licensed health facility, the short-term residential therapeutic program shall provide the nursing care consistent with their treatment model, or shall partner with the county placing agency to arrange for the nursing care to be provided.
> (5) The department, in consultation with the State Department of Health Care Services, county agencies, providers, and other stakeholders, shall develop guidance to implement this subdivision."

Welfare and Institutions Code Section 4096.55 in part provides:

> "(a) The State Department of Social Services, in collaboration with the State Department of Health Care Services, shall make available nursing resources intended to assist short-term residential therapeutic programs with meeting the needs of any child, minor, or nonminor dependent residing in the program placed by a county child welfare agency or probation department.

(b) Nursing resources established pursuant to this section may include both of the following:
(1) A contract that provides for access to nursing services 24 hours a day, 7 days a week.
(2) Any other nursing resources, as identified by the State Department of Social Services, in collaboration with the State Department of Health Care Services and in consultation with the Department of Finance, designed to assist short-term residential therapeutic programs to meet the medical needs of any child, minor, or nonminor dependent residing in the program placed by a county child welfare agency or probation department.
(c) If a child requires regular onsite nursing care, the placing agency shall ensure the nursing care is provided, either by the provider consistent with their treatment model, or by the county arranging for that care to be provided utilizing their nursing resources.
(d) (1) The State Department of Social Services, in collaboration with the State Department of Health Care Services, shall issue necessary guidance for the statewide or regional short-term residential therapeutic program nursing resources, including, but not limited to, implementation, data tracking, and claiming.
(2) The guidance shall also provide information on how to access existing nursing resources for the provision of medically necessary onsite care for children, minors, and nonminor dependents placed by a county child welfare agency or probation department."

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NOTE: Authority: Section 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126;
AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Section 1562.01, Health and Safety Code; Section 4096.55, Welfare and Institutions Code.

ARTICLE 9. ADMINISTRATOR CERTIFICATION TRAINING PROGRAMS

87090 INITIAL CERTIFICATION TRAINING PROGRAM VENDOR AND PROGRAM APPROVAL REQUIREMENTS.

(a) Initial Certification Training Programs shall be approved by the Department prior to being offered to applicants seeking administrator certification.

(b) Any vendor applicant seeking approval of an Initial Certification Training Program shall submit a written request to the Department's Administrator Certification Section using the Request for Course Approval form LIC 9140 and Vendor Application/Renewal form LIC 9141. The request shall be signed by an authorized representative of the vendor applicant certifying that the information submitted is true and correct, and contain the following:

(1) Name, type of entity, physical address, e-mail address and phone number of the vendor applicant requesting approval and the name of the person in charge of the program.

(2) Subject title, classroom hours, proposed dates, duration, time, location and proposed instructor of each component.

(3) Written description and educational objectives for each subject matter component, hourly topical outline, teaching method, and description of course and participant evaluation methods.

(A) The use of videos, videotapes, video clips, or other visual recordings, are permitted as media teaching aids in an Initial Certification Training Program but shall not, in themselves, constitute the Program or any subject matter component thereof.

(4) Qualifications of each proposed instructor as specified in Section 87090(i)(7).

(5) Locality(ies) in which the Training Program will be offered.

(6) A list and the location(s) of records to be maintained pursuant to Section 87090(i)(5) below.

(7) A statement of whether or not the vendor applicant and each proposed instructor held or currently holds a license, certification or other approval as a professional in a specified field and the certificate or license number(s).

(8) A statement of whether or not the vendor applicant and each proposed instructor held or currently holds a State-issued care facility license or was or is employed by a State-licensed care facility and the license number.

(9) A statement of whether or not the vendor applicant and each proposed instructor was the subject of any legal, administrative, or other action involving licensure, certification or other approvals as specified in (7) and (8) above.

(10) A non-refundable processing fee as specified in Health and Safety Code section 1522.41(l)(3).

(c) Initial Certification Training Program approval shall expire two (2) years from the date the Initial Certification Program vendorship is approved by the Department.

(d) A written request for renewal of the Initial Certification Training Program shall be submitted to the Department's Administrator Certification Section using the Request for Course Approval form LIC 9140 and Vendor Application/Renewal form LIC 9141 and shall contain the information and processing fee specified in Section 87090(b) above.

(1) A vendor must have a current approved Short-Term Residential Therapeutic Program Initial Certification Training Program in order to renew its Short-Term Residential Therapeutic Program Initial Certification Training Program vendorship.

(e) If a request for approval or renewal of an Initial Certification Training Program is incomplete, the Department shall, within thirty (30) days of receipt, give written notice to the vendor applicant that:

(1) The request is deficient, describing which documents or information are outstanding and/or inadequate, and informing the vendor applicant that the information must be submitted within thirty (30) days of the date of notice.

(f) If the vendor applicant does not submit the requested information within thirty (30) days, the request for approval or renewal shall be deemed withdrawn provided that the department has not denied or taken action to deny the request.

(g) Within thirty (30) days of receipt of a complete request for an approval, the Department shall notify the vendor applicant in writing whether the request has been approved or denied.

(h) The Short-Term Residential Therapeutic Program Initial Certification Training Program shall consist of the following components:

(1) A minimum of forty (40) classroom hours, as defined in California Code of Regulations, Title 22, Section 87001(c)(7), with the following uniform Core of Knowledge curriculum:

(A) Six (6) hours of instruction in laws, regulations, and policies and procedural standards that impact the operations of the type of facility for which the applicant will be an administrator.

(B) Eight (8) hours of instruction in business operations and management and supervision of staff, including staff training.

(C) Four (4) hours of instruction in the physical and psychosocial needs of the children, including behavior management, de-escalation techniques, and trauma-informed crisis management planning.

(D) Two (2) hours of instruction in the permanence, well-being, and educational needs of the children.

(E) Four (4) hours of instruction in the use of community and support services, including accessing local behavioral and mental health supports and interventions, substance use disorder treatments, and culturally relevant services, as appropriate.

(F) Four (4) hours of instruction in understanding the requirements and best practices regarding medications and psychotropic medications, including, but not limited to, court authorization, uses, benefits, side effects,

interactions, assistance with self-administration, misuse, documentation, storage, and metabolic monitoring of children prescribed psychotropic medications.

(G) Five (5) hours of instruction on resident admission, retention, and assessment procedures, including the right of a foster child to have fair and equal access to all available services, placement, care, treatment and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity and expression, mental or physical disability, medical condition, genetic information, marital status, ~~or~~ HIV status, citizenship, immigration status or primary language.

(H) One (1) hour of instruction on the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), its historical significance, the rights of children covered by the act, and the best interests of Indian children as including culturally appropriate, child-centered practices that respect Native American history, culture, retention of Tribal membership, and connection to the Tribal community and traditions.

(I) Two (2) hours of instruction in cultural competency and sensitivity and related best practices for providing adequate care for children across diverse ethnic and racial backgrounds, as well as children, identifying as lesbian, gay, bisexual, or transgender.

(J) Two (2) hours of instruction on nonviolent emergency intervention and reporting requirements.

(K) Two (2) hours of basic instruction on the existing laws and procedures regarding the safety of foster children at school and the ensuring of a harassment- and violence-free school environment.

(2) A standardized exam developed and administered by the Department.

(A) Individuals completing an Initial Certification Training Program must pass

the exam with a minimum score of seventy percent (70%).

(B) The exam questions shall reflect the hour value of the Core of Knowledge areas specified in Section 87090(h)(1) above.

(i) Initial Certification Training Program vendors shall:

(1) Offer all forty (40) classroom hours required for certification in a classroom setting as defined in California Code of Regulations, Title 22, Section 87001(c)(7).

(A) A minimum of ten (10) hours of instruction must be provided by an instructor(s) who meets the criteria specified in Section 87090(i)(7)(D).

(B) Where good faith efforts to employ an instructor who meets the criteria specified in (A) are unsuccessful, vendors may apply to the Department's Administrator Certification Section for a waiver of this requirement.

(2) Establish a procedure to allow participants to make up any component necessary to complete the total program hours and content.

(3) Issue certificates of completion to participants who successfully complete the program.

(A) The certificate of completion shall be signed by the vendor or its authorized representative and include the approved vendor's name and vendor number, approved course number, and the date(s), time(s) and location(s) of program classes.

(4) Submit to the Department upon request a Roster of Participants (form LIC 9142A or other document which includes the same information) who completed the program.

(5) Maintain and ensure that records are available for review by Department representatives. Records shall be maintained for three (3) years from the date of vendorship approval, course approval, or course offering, whichever is applicable and most recent. The records shall include the following information:

(A) Course schedules, dates, descriptions and course outlines.

(B) A list of instructors and documentation of qualifications of each, as specified in Section 87090(i)(7).

(C) A Roster of Participants (LIC 9142A or other document which includes the same information) and documentation of who completed the program.

(D) Evaluations by participants of courses and instructors.

(E) Audio-visual recordings of all Initial Certification Training Programs and program components offered outside of California.

(6) Upon request, submit to the Department's Administrator Certification Section a schedule for at least the next calendar quarter specifying the subject title, approved course number, classroom hours, proposed dates, time, duration, location and proposed instructor(s) for each program/component.

(7) Have instructors who have verifiable knowledge and/or experience in the subject matter and content to be taught and who meet at least one of the following criteria:

(A) Hold a bachelor's or higher degree from an accredited institution in a discipline or field related to the subject(s) to be taught, and have at least two (2) years of experience relevant to the subject(s) to be taught, or

(B) Four (4) years of experience relevant to the course to be taught, or

(C) Be a professional, in a field related to the subject(s) to be taught, with a valid license or certification to practice in California and at least two (2) years of related field experience, or

(D) Have at least four (4) years of experience in California as an administrator of a group home and/or Short-Term Residential Therapeutic Program, within the last six (6) years, with a record of administering the facility(ies) in substantial compliance, as defined in California Code of Regulations, Title 22, Section 80001(s)(8), and have verifiable training in the subject(s) to be taught.

(8) Before adding or replacing an approved instructor, obtain the Department's approval by submitting a completed Request to Add or Replace Instructor form LIC 9140A and supporting documentation to the Department's Administrator Certification Section.

(9) Encourage course instructors to elicit and respond appropriately to participants' questions.

(10) Develop and provide to each course participant an end-of-course evaluation requesting feedback on, at minimum, instructor(s) knowledge of the subject(s), quality of instruction provided, attainment of learning objectives, and opportunity of participants to ask questions.

(11) Report any changes of the information in 87090(b)(1) within thirty (30) days to the Department's Administrator Certification Section.

(j) Initial Certification Training Program vendors shall allow Department representatives to monitor and inspect training programs.

(1) Any duly authorized Department representative may, upon proper identification and upon stating the purpose of his/her visit, enter, inspect, and monitor Initial Certification Training Programs with or without advance notice. Such representatives may also request information and copies of records in advance of such visits and/or for desk monitoring.

(2) The vendor shall ensure that provisions are made for the private interview of any participant or instructor, and for the examination of any records relating to the program.

(3) The Department shall have the authority to inspect, audit, and copy all program records upon demand. Records may be removed if necessary for copying.

(4) Department representatives shall not remove any current emergency or health related personnel records unless the same information is otherwise readily available in another document or format. Department representatives shall return the records undamaged and in good order within three business days following the date the records were removed.

(k) If, as a result of an investigation or inspection, the Department determines that a deficiency exists, the Department shall issue a notice of deficiency, unless the deficiency is minor and

corrected immediately, and shall provide the Initial Certification Training Program Vendor with the notice of deficiency in person or by registered mail.

(1) The notice of deficiency shall be in writing and shall include:

(A) A reference to the statute or regulation upon which the deficiency is premised.

(B) A factual description of the nature of the deficiency fully stating the manner in which the Initial Certification Training Program Vendor failed to comply with the specified statute or regulation.

(C) The amount of penalty pursuant to Section 87092 which shall be assessed if the deficiency is not corrected and the date the penalty begins.

(D) The appeal process as specified in Section 87093.

(2) The Department and the Initial Certification Training Program Vendor shall develop a plan for correcting each deficiency which shall be added to the notice of deficiency.

(3) Absent prior Department approval, all Program deficiencies shall be corrected prior to the next offering of the Initial Certification Training Program, and all other deficiencies (e.g., recordkeeping) shall be corrected within the number of days agreed to in the corrective action plan.

(l) Initial Certification Training Program Vendors shall not instruct or "co-locate" more than one program type (e.g., Adult Residential Facility, Group Home, Short-Term Residential Therapeutic Program, Residential Care Facility for the Elderly) at one time.

(m) Initial Certification Training Program Vendors and their instructors who are also seeking administrator certification shall not be permitted to receive credit for attending the vendor's own Initial Certification Training Program.

NOTE: Authority cited: Sections 1522.41(j), 1530, and 1562.01(q) Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Section 1 of Assembly Bill (AB) 458 (Chapter 331, Statutes of 2003); Sections 1501, 1522.08, 1522.41 and 1531, Health and Safety Code; Section 16001.9,

Welfare and Institutions Code; and Article 3.6 (commencing with Section 32228) of Chapter 2 of Part 19 of Division 1 of Title 1 of the Education Code.

87090.1 DENIAL OF REQUEST FOR APPROVAL OF AN INITIAL CERTIFICATION TRAINING PROGRAM.

(a) The Department may deny a request for approval of an Initial Certification Training Program in accordance with Section 1522.41(j)(1) of the Health and Safety Code. The Department shall provide the applicant with a written notice of the denial.

(b) The applicant may appeal the denial of the application in accordance with Section 1551 of the Health and Safety Code.

(c) Any request for approval submitted by a vendor applicant whose application has been previously denied shall be processed by the Department in accordance with the provisions of Health and Safety Code section 1520.3(b).

NOTE: Authority cited: Sections 1522.41(j), 1530, and 1562.01(q), Health and Safety Code AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1520.3(b), 1522.41 and 1551, Health and Safety Code.

87090.2 REVOCATION OF AN INITIAL CERTIFICATION TRAINING PROGRAM.

(a) The Department may revoke an Initial Certification Training Program approval and remove the vendor from the list of approved vendors if the vendor does not provide training consistent with Section 87090 or:

(1) Is unable to provide training due to lack of staff, funds, or resources, or

(2) Misrepresents or makes false claims regarding the training provided, or

(3) Demonstrates conduct in the administration or instruction of the program that is illegal, inappropriate, or inconsistent with the intent or requirements of the program, or

(4) Misrepresents or knowingly makes false statements in the vendor application or during program instruction, or

(5) Fails to correct deficiencies and/or to pay civil penalties due.

(b) The vendor may appeal the revocation in accordance with Health and Safety Code section 1551.

(c) Any applicant for approval of an Initial Certification Training Program submitted by a vendor applicant whose approval has been previously revoked shall be processed by the Department in accordance with the provisions of Health and Safety Code section 1520.3.

NOTE: Authority cited: Sections 1522.41(j), 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 153, Stats.
2021, Ch. 86, Sec. 57. Reference: Sections 1520.3, 1522.41 and 1551, Health and Safety Code.

87091 CONTINUING EDUCATION TRAINING PROGRAM VENDOR REQUIREMENTS.

(a) Any vendor applicant seeking approval as a vendor of a Continuing Education Training Program shall obtain vendor approval by the Department prior to offering any course to certificate holders.

(b) Any vendor applicant seeking approval to become a vendor of a Continuing Education Training Program shall submit a written request to the Department's Administrator Certification Section using the Vendor Application/Renewal form LIC 9141. The request shall be signed by an authorized representative of the vendor applicant certifying that the information submitted is true and correct, and contain the following:

(1) Name, type of entity, physical address, e-mail address and phone number of the vendor applicant requesting approval and the name of the person in charge of the Program.

(2) A statement of whether or not the vendor applicant held or currently holds a license, certification, or other approval as a professional in a specified field and the license or certificate number.

(3) A statement of whether or not the vendor applicant held or currently holds a State-issued care facility license or was or is employed by a State-licensed care facility and the license number.

(4) A statement of whether or not the vendor applicant was the subject of any legal, administrative, or other action involving licensure, certification or other approvals as specified in Sections 87091(b)(2) and (3) above.

(5) A non-refundable processing fee as specified in Health and Safety Code section 1522.41(l)(3).

(c) Continuing Education Training Program vendor approval shall expire two (2) years from the date the vendorship is approved by the Department.

(d) A written request for renewal of the Continuing Education Training Program vendorship shall be submitted to the Department's Administrator Certification Section using the Vendor Application/Renewal form LIC 9141 and shall contain the information and processing fee specified in Section 87091(b).

(1) A continuing education vendor must have one or more current approved Short-Term Residential Therapeutic Program continuing education courses in order to renew its Short-Term Residential Therapeutic Program continuing education program vendorship.

(e) If the request for approval or renewal of a Continuing Education Training Program vendorship is incomplete, the Department shall, within thirty (30) days of receipt, give written notice to the vendor applicant that:

(1) The request is deficient, describing which documents or information are outstanding and/or inadequate and informing the vendor applicant that the information must be submitted within thirty (30) days of the date of the notice.

(f) If the vendor applicant does not submit the requested information above within thirty (30) days, the request for approval or renewal shall be deemed withdrawn, provided that the Department has not denied or taken action to deny the request.

(g) Within thirty (30) days of receipt of a complete request for an approval or renewal, the Department shall notify the vendor applicant in writing whether the request has been approved or denied.

(h) Continuing Education Training Program vendors shall:

(1) Issue certificates of completion to participants who successfully complete the program.

(A) The certificate of completion shall be signed by the vendor or its authorized representative and include the approved vendor's name and vendor number, the approved course name and course number, the approved course hours, and the date(s), time(s) and location(s) of the course(s).

(2) Maintain and ensure that records are available for review by Department representatives. Records shall be maintained for three (3) years from the date of vendorship approval, course approval, or course offering, whichever is applicable and most recent. The records shall include the following:

(A) Course schedules, dates, descriptions and course outlines.

(B) Lists of instructors and documentation of qualifications of each, as specified in Section 87091(h)(3).

(C) Rosters of Participants (LIC 9142A or other document which includes the same information) and documentation of who completed the courses.

(D) Evaluations by participants of courses and instructors.

(E) Audio-visual recordings of all Continuing Education Training courses offered outside of California.

(3) Have instructors who have verifiable knowledge and/or experience in the subject matter and content to be taught and who meet at least one of the following criteria:

(A) Hold a bachelor's or higher degree from an accredited institution in a discipline or field related to the subject(s) to be taught, and have at least two

(2) years of experience relevant to the subject(s) to be taught, or

(B) Four (4) years of experience relevant to the course to be taught, or

(C) Be a professional, in a field related to the subject(s) to be taught, with a valid license or certification to practice in California and at least two (2) years of related field experience, or

(D) Have at least four (4) years of experience in California as an administrator of a group home or Short-Term Residential Therapeutic Program, within the last six (6) years, with a record of administering the facility(ies) in substantial compliance as defined in California Code of Regulations, Title 22, Section 80001(s)(8), and have verifiable training in the subject(s) to be taught.

(4) Upon request, submit to the Department's Administrator Certification Section a schedule for at least the next calendar quarter specifying the subject title, approved course number, classroom hours, proposed dates, time, duration, location and proposed instructor for each future course.

(5) Before adding or replacing an approved instructor, obtain the Department's approval by submitting a completed Request to Add or Replace Instructor form LIC 9140A and supporting documentation to the Department's Administrator Certification Section.

(6) Encourage course instructors to elicit and respond appropriately to participants' questions.

(7) Develop and provide to each course participant an end-of-course evaluation requesting feedback on, at minimum, instructor(s) knowledge of the subject(s), quality of instruction provided, attainment of learning objectives, and opportunity of participants to ask questions.

(8) Report any changes of the information in 87091(b)(1) within thirty (30) days to the Department's Administrator Certification Section.

(i) Courses approved for continuing education credit shall require the physical presence of the certificate holder in a classroom setting, as defined in California Code of Regulations, Title 22, Section 87001(c)(7) except that:

(1) The Department may approve online courses pursuant to Health and Safety Code section 1522.41(j)(7) where technology permits the interactive participation of the certificate holder and such participation is verifiable. Interactive online training courses require the participant to respond to prompts and receive feedback at various intervals throughout the course in order to progress through the training and to successfully pass a test at the conclusion of the course in order to receive a certificate of completion for the course.

(A) A Webinar or similar type of live broadcast of a training course may be approved by the Department for online continuing education hours pursuant

to Health and Safety Code section 1522.41(j)(7) where the technology permits interactive participation of the certificate holder and such participation is verifiable, and where it can be verified that the certificate holder was logged on and interacting throughout the entire length of the Webinar.

(B) All online training courses shall be designed to ensure participation for the actual number of hours approved and to ensure that participants cannot print a certificate of completion until the approved course hours have been completed.

(j) Any changes to courses previously approved by the Department must be submitted and approved by the Department prior to being offered.

(k) Continuing Education Training Program vendors shall allow Department representatives to monitor and inspect Training Courses and Programs.

(1) Any duly authorized Department representative may, upon proper identification and upon stating the purpose of their visit, enter, inspect, and monitor continuing education training courses with or without advance notice. Such representatives may also request information and copies of records in advance of such visits and/or for desk monitoring.

(2) The vendor shall ensure that provisions are made for the private interview of any participant or instructor, and for the examination of any records relating to the program.

(3) The Department shall have the authority to inspect, audit, and copy all program records upon demand. Records may be removed if necessary for copying.

(4) Department representatives shall not remove any current emergency or health related personnel records unless the same information is otherwise readily available in another document or format. Department representatives shall return the records undamaged and in good order within three business days following the date the records were removed.

(l) If, as a result of an investigation or inspection, the Department determines that a deficiency exists, the Department shall issue a notice of deficiency, unless the deficiency is minor and corrected immediately, and shall provide Continuing Education Training Program Vendor with the notice of deficiency in person or by registered mail.

(1) The notice of deficiency shall be in writing and shall include:

(A) A reference to the statute or regulation upon which the deficiency is premised.

(B) A factual description of the nature of the deficiency fully stating the manner in which the Vendor failed to comply with the specified statute or regulation.

(C) The amount of penalty pursuant to Section 87092 which shall be assessed if the deficiency is not corrected and the date the penalty begins.

(D) The appeal process as specified in Section 87093.

(2) The Department and the Vendor shall develop a plan for correcting each deficiency which shall be added to the notice of deficiency.

(3) Absent prior Department approval, all course deficiencies shall be corrected prior to the next offering of the deficient course(s), and all other deficiencies (e.g., recordkeeping) shall be corrected within the number of days agreed to in the corrective action plan.

(m) Continuing Education Training Program vendors who teach courses that the Department has approved for more than one program type (e.g., Adult Residential Facility, Group Home, Short-Term Residential Therapeutic Program, Residential Care Facilities for the Elderly), may provide “multiple crediting”, that is, more than one certification for the course, to participants who complete the course satisfactorily.

(n) Continuing Education Training Program vendors that the Department has approved for more than one program type (e.g., Adult Residential Facility, Group Home, Short-Term Residential Therapeutic Program, Residential Care Facilities for the Elderly), may “co-locate” or instruct specified courses for more than one program type.

(1) The approved hours for co-located courses may differ depending on the content pertinent to each program type.

(o) Continuing Education Training Program vendors and their instructors who are also certificate holders shall not be permitted to receive credit for attending the vendor's own Continuing Education Training Program courses.

NOTE: Authority cited: Sections 1522.41(j),1530, and 1562.01(q), Health and Safety Code AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1522.08, 1522.41, Health and Safety Code.

87091.1 CONTINUING EDUCATION TRAINING PROGRAM COURSE APPROVAL REQUIREMENTS.

(a) Any Continuing Education Training Program course shall be approved by the Department prior to being offered to certificate holders.

(b) Any vendor seeking approval of a Continuing Education Training Program course shall submit a written request to the Department's Administrator Certification Section using the Request for Course Approval form LIC 9140 for each course. The request shall be signed by an authorized representative of the vendor certifying that the information submitted is true and correct, and contain the following:

(1) Subject title, classroom hours, scheduled dates, duration, time, location, and proposed instructor(s).

(2) Written description and educational objectives, teaching methods, hourly topical content outline, and a description of course and participant evaluation methods.

(A) The use of videos, videotapes, video clips, or other visual recordings are permitted as media teaching aids in a continuing education course but shall not, in themselves, constitute the course.

(3) Qualifications of each proposed instructor, as specified in Section 87091(h)(3).

(4) A list and the location(s) of records to be maintained pursuant to Section 87091(h)(2).

(5) A statement of whether or not the proposed instructor held or currently holds a license, certification or other approval as a professional in a specified field and the license or certificate number.

(6) A statement of whether or not the proposed instructor held or currently holds a State-issued care facility license or was or is employed by a State-licensed care facility and the license number.

(7) A statement of whether or not the proposed instructor was the subject of any legal, administrative, or other action involving licensure, certification or other approvals as specified in Sections 87091.1(b)(5) and (6) above.

(8) A non-refundable fee of $10 per continuing education unit for each licensed facility type.

(c) Course approval shall expire on the expiration date of the vendor's Continuing Education Training Program vendorship approval as provided in Section 87091(c).

(1) To renew a course, the vendor shall submit a written request to the Department's Administrator Certification Section using the Renewal of Continuing Education Course Approval form LIC 9139 and Vendor Application/Renewal form LIC 9141, at least thirty (30) days prior to the course expiration.

(2) Course renewal requests received by the Department after the course expiration date shall be denied, and the vendor is required to resubmit the courses for approval pursuant to Section 87091.1(b).

(3) Course renewal requests received for courses where the content is known to have changed, or needs to be updated, shall be denied. The vendor will need to submit the revised course for approval pursuant to Section 87091.1(b).

(d) If a request for approval or renewal of a Continuing Education Training Program course is incomplete, the Department shall, within thirty (30) days of receipt, given written notice to the vendor applicant that:

(1) The request is deficient, describing which documents or information are outstanding and/or inadequate and informing the vendor applicant that the information must be submitted within thirty (30) days of the date of the notice.

(e) If the vendor applicant does not submit the requested information within thirty (30) days, the request for approval or renewal shall be deemed withdrawn, provided that the Department has not denied or taken action to deny the request.

(f) Within thirty (30) days of receipt of a complete request for an approval or renewal, the Department shall notify the vendor applicant in writing whether the course has been approved or denied.

(g) Any changes to previously approved courses must be submitted to the Department for approval prior to being offered as specified in Section 87091.1(b).

NOTE: Authority cited: Sections 1522.41(j), 1530, and 1562.01(q), Health and Safety Code AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1522.08 and 1522.41, Health and Safety Code.

87091.2 ADMINISTRATIVE REVIEW OF DENIAL OR REVOCATION OF A CONTINUING EDUCATION COURSE.

(a) A vendor may seek administrative review of the denial or revocation of course approval as follows:

(1) The vendor must request administrative review, in writing to the Department's Administrator Certification Section Manager, within ten (10) days of the receipt of the Department's notice denying or revoking course approval.

(2) The administrative review shall be conducted by a higher-level staff person than the person who denied or revoked course approval.

(3) If the reviewer determines that the denial or revocation of course approval was not issued in accordance with applicable statutes and regulations of the Department, or that other circumstances existed that would have led to a different decision, they shall have the authority to amend the denial or revocation of course approval.

(4) The reviewer shall send a written response to the vendor within thirty (30) days of the Section Manager's receiving the request per Section 87091.2(a)(1).

(5) The decision of the higher-level staff person shall be final.

NOTE: Authority cited: Sections 1522.41(j), 1530, and 1562.01(q), Health and Safety Code AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Section 1522.41, Health and Safety Code.

87091.3 DENIAL OF A REQUEST FOR APPROVAL OF A CONTINUING EDUCATION TRAINING PROGRAM.

(a) The Department may deny a request for approval of a Continuing Education Training Program in accordance with Health and Safety Code section 1522.41(j)(1). The Department shall provide the applicant with a written notice of the denial.

(b) The vendor applicant may appeal the denial in accordance with Health and Safety Code section 1551.

(c) Any request for approval submitted by a vendor applicant whose application has been previously denied shall be processed by the Department in accordance with the provisions of Health and Safety Code section 1520.3(b).

NOTE: Authority cited: Sections 1522.41(j), 1530, and 1562.01(q), Health and Safety Code AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1520.3(b), 1522.41 and 1551, Health and Safety Code.

87091.4 REVOCATION OF A CONTINUING EDUCATION TRAINING PROGRAM.

(a) The Department may revoke a Continuing Education Training Program approval and remove the vendor from the list of approved vendors if the vendor does not provide training consistent with Sections 87091 and 87091.1, or:

(1) Is unable to prove training due to lack of staff, funds, or resources; or

(2) Misrepresents or make false claims regarding the training provided; or

(3) Demonstrates conduct in the administration or instruction of the program that is illegal, inappropriate, or inconsistent with the intent or requirements of the program; or

(4) Misrepresents or knowingly makes false statements in the vendor application or during program instruction, or

(5) Fails to correct deficiencies and/or to pay civil penalties due.

(b) The vendor may appeal the revocation in accordance with Health and Safety Code section 1551.

(c) Any application for approval of a Continuing Education Training Program submitted by a vendor applicant whose approval has been previously revoked shall be processed by the Department in accordance with the provisions of Health and Safety Code section 1520.3.

NOTE: Authority cited: Sections 1522.41(j), 1530, and 1562.01(q), Health and Safety Code AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1520.3, 1522.41 and 1551, Health and Safety Code.

87092 PENALTIES.

(a) A penalty of $50 per day, per cited violation, shall be assessed for all deficiencies that are not corrected as specified in the notice of deficiency.

(b) Unless otherwise ordered by the Department, all penalties are due and payable upon receipt of notice of payment, and shall be paid only by money order or cashier's check made payable to the Department.

(c) The Department shall have authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (b) above.

NOTE: Authority cited: Sections 1522.41(j), 1530, and 1562.01(q), Health and Safety Code AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1523.1, 1548 and 1549, Health and Safety Code.

87093 APPEAL PROCESS.

(a) A vendor may request in writing to the Department's Administrator Certification Section Manager a review of a notice of deficiency or notice of penalty within ten (10) working days of receipt of the notice. This review shall be conducted by a higher-level staff person other than the evaluator who issued the notice.

(b) If the reviewer determines that a notice of deficiency or notice of penalty was not issued in accordance with applicable statutes and regulations, the reviewer shall amend or dismiss the notice. In addition, the reviewer may extend the date specified for correction of a deficiency if warranted by the facts or circumstances to support a request for extension.

(c) The reviewer will send a written response to the vendor within thirty (30) days of the Section Manager's receiving a request as described in (a) above.

NOTE: Authority cited: Sections 1522.41(j), 1530, and 1562.01(q), Health and Safety Code AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Section 1534, Health and Safety Code.

ARTICLE 10. EMERGENCY INTERVENTIONS

ARTICLE 10.1. GENERAL REQUIREMENTS

87095.00 GENERAL PROVISIONS.

(a) An emergency intervention plan as specified in Section 87095.22, is required for all short-term residential therapeutic programs, and must be submitted to, and approved by, the Department prior to use by the short-term residential therapeutic program.

(1) The Department shall review the emergency intervention plan and notify the applicant whether the plan has been approved or denied as specified in Section 87095.22(l).

(b) The emergency intervention plan must use a continuum of interventions, starting with the least restrictive intervention.

(1) More restrictive interventions may be justified when less restrictive techniques have been attempted and were not effective and the child continues to present an imminent danger for injuring or endangering self or others.

(c) Short-term residential therapeutic program staff may be justified in using restraints as an emergency intervention if all of the following conditions are met:

(1) The restraint is reasonably applied to prevent a child exhibiting assaultive behavior from exposure to immediate injury or danger to self or others;

(2) The force used does not exceed that reasonably necessary to avert the injury or danger;

(3) The danger of the force applied does not exceed the danger being averted;

(4) The duration of the restraint ceases as soon as the danger of harm has been averted;

(5) The child receiving the restraint has no known medical or physical condition that would lead the licensee to believe that the use of restraint would endanger the child's health and safety or exacerbate the medical condition;

(6) The staff using the restraint has been trained to use the emergency interventions, pursuant to Section 87095.65.

(7) The staff complies with all requirements specified in this article pertaining to the use of restraints.

(d) All children placed in a short-term residential therapeutic program have the right to be free from the use of restraints imposed as a means of coercion, discipline, convenience, or retaliation by staff.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1180.4, 1501, 1502, 1522.41(c)(1)(J), 1531, 1562.01 and 1563(c)(4), Health and Safety Code.

87095.01 EMERGENCY INTERVENTIONS PROHIBITION.

(a) The following emergency interventions techniques must not be used on a child at any time.

(1) A restraint or containment technique that obstructs a child's respiratory airway or circulation, or impairs a child's breathing or respiratory capacity, including:

(A) Techniques in which pressure or weight is placed against the child's torso or back.

(2) Placing blankets, pillows, clothing or other items over the child's head or face; body wraps with sheets or blankets.

(A) Pillows or padding, placed under the head of a thrashing child to prevent injury are permitted.

(3) Any restraint or containment technique that can exacerbate a child's medical or physical condition.

(4) Prone restraint.

(5) Any restraint or containment technique that places a child in a prone position with their hands behind their back.

(6) Any restraint or containment technique as an extended procedure.

(7) Mechanical Restraints, except postural supports as specified in Sections 87072(c)(23) and 87072.3(b).

(8) Aversive behavior modification interventions including, but not limited to, spanking and corporal punishment, body shaking, water spray, slapping, pinching, ammonia vapors, sensory deprivation and electric shock.

(9) Intentionally producing pain to limit the child's movement, including but not limited to, arm twisting, finger bending, joint extensions and headlocks.

(10) The use of psychotherapeutic or behavior modifying drugs as punishment or for the convenience of staff to control a child who is exhibiting assaultive behavior.

(11) Techniques that can reasonably be expected to cause serious injuries to the child that require medical treatment provided by a health practitioner, licensed under

Division 2 of the Business and Professions Code. A health practitioner would include a physician, surgeon, osteopath, dentist, licensed nurse, optometrist, etc.

(12) Verbal abuse or physical threats by staff.

(13) The isolation of a child in a room which is locked by means of: key lock; deadbolt; security chain; flush, edge or surface bolt; or similar hardware which is inoperable by the child inside the room.

(14) Manual restraints for more than 15 consecutive minutes in a 24-hour period, unless as specified in Section 87095.22.

(15) Manual restraints for more than four (4) cumulative hours in a 24-hour period.

(b) In addition to techniques specified in Section 87095.01(a), any emergency intervention technique not approved for use as part of the licensee's emergency intervention plan must not be used at any time.

(c) Manual restraints must never be used for the following purposes:

(1) Punishment or discipline.

(2) Replacement for on-duty direct-care staff.

(3) Convenience of staff.

(4) As a substitute for, or as part of a treatment program.

(5) As a substitute for, or as part of a behavior modification program.

(6) Harassment or humiliation.

(7) To prevent a child from leaving the facility, except as specified in the child's written runaway plan in Section 87095.24(e).

(8) To prevent damage to property unless the behavior is also likely to cause immediate physical harm or danger to the individual or others.

(d) Manual restraints must not be used when a child's medical assessment, as specified in California Code of Regulations, Title 22, Section 80069, documents that they have a medical condition that would contraindicate the use of manual restraints or when the child's current condition contraindicates the use of manual restraints.

(e) Law enforcement must not be contacted as a substitute for effective care and supervision or the facility's approved continuum of emergency interventions.

(1) Law enforcement intervention must not be used as a threat or in retaliation against a child.

(2) Law enforcement must only be requested when there is an imminent threat to the life or safety of a child or another person, or as a last resort after other diversion and de-escalation techniques have been utilized.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1180.4, 1501, 1502, 1531, 1562.01 and 1563(c)(4), Health and Safety Code.

ARTICLE 10.3. APPLICATION PROCEDURES

87095.22 EMERGENCY INTERVENTION PLAN.

(a) The emergency intervention plan is to be designed and approved, in conjunction with the licensee, by an individual with the qualifications of a behavior management consultant as defined in Section 87001(b)(1).

(1) The plan must be appropriate for the population of children served by the short-term residential therapeutic program;

(2) The plan must be appropriate for the staff qualifications and staff emergency intervention training.

(3) The plan must be trauma-informed, as specified in Section 87078.2, culturally relevant, appropriate for the age, size, emotional, behavioral and developmental level of the children and account for the particular traumas of specialized populations, including but not limited to, commercially sexually exploited children.

(4) The plan must include procedures that explicitly include and support recognized trauma-informed principles, approaches, and trauma specific interventions, de-escalation and harm reduction techniques. The licensee will include descriptions and details in the written procedures to demonstrate how the licensee will ensure prevention of personal rights violations.

(b) The emergency intervention plan is to be included in the program statement for the short-term residential therapeutic program.

(c) In addition to Section 87022, the written emergency intervention plan must be submitted to, and approved by the Department prior to implementation. The plan must include the requirements specified in Sections 87095.22(d) through (h).

(d) General Provisions:

(1) Name(s) of staff trained to use emergency interventions.

(2) A description of the continuum of emergency interventions, beginning with early interventions as defined in Section 87001(e)(1) specifying the emergency intervention techniques to be used. For each type of emergency intervention, the plan must include the following:

(A) A description of each emergency intervention technique, including manual restraints, to be used and in what types of situations they will be used.

(B) Maximum time limits for each emergency intervention technique, not to exceed maximum time limits as specified in Section 87095.22(f).

(C) In what situations each emergency intervention technique is not to be used.

(D) Expected outcome, benefits to the child.

(3) A statement specifying what emergency interventions will never be used.

(4) A description of the circumstances and the types of behaviors that may require the use of emergency intervention.

(5) Procedures for determining and using age and size appropriate emergency intervention techniques.

(6) A description of how the assessments for each child, required in Sections 87068.1(c) and 87068.11(f), which includes the needs and services plan per Sections 87068.2 and 87068.22, will be used to inform the licensee's emergency intervention plan.

(7) Procedures for using emergency interventions if more than one child requires the use of emergency intervention at the same time.

(8) Procedures for ensuring that care and supervision are maintained in the facility when all available staff are required for the use of emergency interventions.

(9) Procedures for re-integrating the child back into the facility routine after an emergency intervention technique has been used.

(10) Criteria for assessing when an emergency intervention plan needs to be modified or terminated, along with the procedures for terminating the plan or making any necessary modifications.

(11) Criteria for assessing when the facility does not have adequate resources to meet the needs of a specific child, along with how the facility will move forward to address those needs.

(e) The manual restraint plan is to be included as a component of the emergency intervention plan. If the facility will not use manual restraints, the plan must include the following:

(1) Procedures for responding to a crisis situation to prevent a child who is exhibiting assaultive behavior from injuring or endangering self or others.

(A) The external community resources to be used to assist staff must be identified and listed in the plan.

(B) The facility's policies and procedures concerning when and how to involve law enforcement in response to an incident involving a child residing in the facility must be included in the plan.

(C) Nothing in Section 87095.22(e)(1)(A) or (B) shall be interpreted to require a licensee to take any action that would endanger, or to prevent a licensee from taking, any action that would protect, the health and safety of children in care, staff, or others.

(f) The manual restraint plan is to be included as a component of the emergency intervention plan. If the facility will use, or it is reasonably foreseeable that the facility will use, manual restraints, the plan must include the following:

(1) Procedures for ensuring a child's safety when a manual restraint is being used including, but not limited to, the titles of staff responsible for checking the child's breathing and circulation and the job titles or names of the administrator's designee(s) who will be authorized to extend the restraint time.

(A) Procedures for determining when a medical examination is needed during a manual restraint, as specified in Section 87095.69.

(2) Procedures for ensuring that the amount of time a child is restrained is limited to the amount of time when the child is presenting an immediate danger to

themselves or others and that the restraints will not cause injury to the child. Such procedures must include provisions that ensure the following:

(A) A child does not remain in a manual restraint for more than 15 consecutive minutes, unless written approval to continue the restraint after the initial 15 minutes is obtained from the administrator or administrator's designee.

1. The individual who approves the continuation of the restraint must be a person other than the individual who restrained the child.
2. The individual who visually checks the child after 15 minutes to ensure the child is not injured and that the child's personal needs, such as access to toilet facilities, are being met, must be a person other than the individual restraining the child.
3. After the initial 15 minutes, the individual who approves the continuation of the manual restraint shall observe the child's behavior while the child is being restrained to determine whether continued use of the manual restraint is justified.
4. Written approval to continue a manual restraint beyond 15 consecutive minutes must be documented in the child's record.

(B) A child does not remain in a manual restraint for more than 30 consecutive minutes in a 24-hour period unless the child is still presenting a danger to self or others and written approval to continue the restraint after the initial 30 minutes is obtained from the administrator or administrator's designee and the facility social work staff. If facility social work staff are not onsite to provide written approval, the facility may obtain verbal approval. Written approval must be obtained within 24 hours of the verbal approval.

1. The individual who approves the continuation of the restraint must be a person other than the individual who restrained the child.
2. The child is visually checked after the initial 30 minutes, by persons other than the individuals who restrained the child, to ensure the

child is not injured and that the child's personal needs, such as access to toilet facilities, are being met.

3. After the initial 30 minutes, the individuals who approve the continuation of the restraint observe the child's behavior while the child is being restrained to determine whether continued use of the manual restraint is justified.

4. Written approval to continue the use of the manual restraint must be documented in the child's record. The written approval shall include a description of the steps taken to alleviate the necessity of continuing the restraint.

(C) After the initial 30 minutes, a child placed in a manual restraint must be visually checked every 15 minutes until the manual restraint is terminated, to ensure the child is not injured, that personal needs are being met, and that the continued use of the manual restraint is justified.

1. This visual check must be documented in the child's record

2. The person conducting the check must not be the individual who restrained the child.

(D) Manual restraints used in excess of 60 consecutive minutes must be approved, every 30 minutes, in writing by the administrator or administrator's designee, facility social work staff and the child's authorized representative, if any. If the child's authorized representative, if any, is not available to provide written approval, the facility may obtain verbal approval. Written approval must be obtained within 24 hours of the verbal approval. The continued use of a manual restraint shall be documented in the child's record.

1. The written approval shall include a description of the steps taken to alleviate the necessity of continuing the restraint.

(E) After the initial 30 minutes, and at 30 minute intervals, if the child is still presenting a danger to self or others, the administrator or administrator's designee and facility social work staff must evaluate whether the facility has adequate resources to meet the child's needs.

(F) Within 48 hours of a manual restraint of 60 cumulative minutes or longer, in a 24-hour period, the child's needs and services plan must be reviewed by the facility administrator or administrator's designee, facility social work staff and the child's authorized representative, if any, and modified as needed.

(G) Manual restraints must not exceed four (4) cumulative hours in a 24-hour period.

1. If a child continues to present an immediate danger of injuring or endangering self or others, the facility must inform the child's authorized representative, if any, and contact community emergency services to determine whether or not the child should be removed from the facility.

(H) If a manual restraint exceeds two (2) hours, at regular intervals not exceeding two (2) hours, the child must be allowed to access liquids, meals and toileting and range of motion exercises.

(I) Staff must respond promptly and appropriately to a child's request for services and assistance and repositioning the child when appropriate.

(3) Procedures for documenting each use of manual restraints in the child's record as specified in Sections 87095.22, 87095.61, 87095.68, and 87095.69.

(4) Procedures detailing how the facility will implement the requirement for a review of the use of manual restraint with staff and how the procedures will meet all of the requirements of Section 87095.68(b).

(5) Procedures for debriefing each use of manual restraints with the child, if applicable, and their authorized representative, if any, or parent as specified in Section 87095.68.

(6) Procedures for accessing community emergency services, including, but not limited to, law enforcement if the use of emergency interventions is not effective or appropriate.

(A) The facility's policies and procedures concerning when and how to involve law enforcement in response to an incident at the facility must be included in the emergency intervention plan.

(B) Nothing in Section 87095.22(f)(6)(A) shall be interpreted to require a licensee to take any action that would endanger, or to prevent a licensee from taking any action that would protect, the health and safety of children, in care, staff, or others.

(7) Procedures for requiring a licensed professional, as defined in California Code of Regulations, Title 22, Section 80001(l)(3), to approve the initiation and continued use of manual restraints, if the licensee chooses to require this authorization.

(g) The emergency intervention staff training plan is to be included as a component of the emergency intervention plan. The emergency intervention staff training plan must include the following:

(1) The type, title, and a brief description of the emergency intervention training that all staff have completed.

(2) Training requirements for new personnel.

(3) The ongoing training required for existing personnel.

(4) Training curriculum as specified in Section 87095.65(b).

(5) Training schedule which identifies when staff training will be offered and provided.

(6) The name(s) and qualification(s) of the instructor(s) who will provide the training.

(h) Procedures for an internal biannual review of the use of emergency interventions must be developed. Such procedures must include at least the following:

(1) A review is to be conducted by the administrator or the administrator's designee.

(2) Analysis of patterns and/or trends of use of emergency interventions in the previous six (6) month period, based on:

(A) Review of all records related to the use of emergency interventions for accuracy and completeness.

(B) Review of the use, effectiveness and duration of each emergency intervention including, a determination of the effectiveness and appropriateness of the intervention technique used in each situation.

(C) Review of the frequency of emergency interventions in the previous six (6) month period, including the staff involved in each emergency intervention as well as the role they played in the intervention including, but not limited to, those functions required to be performed by staff pursuant to subdivision (f) of this Section.

(3) Corrective action plan, if needed.

(4) The biannual review and corrective action plan must be submitted to the Department no later than the fifth (5th) day of the month following the review.

(5) The licensee shall provide a copy of the biannual review and corrective action plan, if applicable, to the authorized representative upon request.

(i) In addition to the requirements in California Code of Regulations, Title 22, Section 80068, the admission agreement must include a written statement regarding the type(s) of emergency interventions the licensee has been approved to use.

(1) The facility's policy regarding the use of emergency intervention must be reviewed with the child and their authorized representative, if any, at the time of admission.

(A) The licensee shall provide a copy of the approved emergency intervention plan to the child and their authorized representative, if any, upon request.

(j) Only trained staff as specified in Section 87095.65 will be allowed to use emergency interventions on children.

(k) Prior to using the emergency intervention plan, the licensee's board of directors or governing body must approve the emergency intervention plan, and any subsequent amendments. The approval must be documented in the minutes of the board of directors or governing body meeting. Each member of the board of directors or governing body must receive a copy of the emergency intervention plan prior to its use and any modifications to it.

(l) The Department must review the emergency intervention plan, including any amendments, and notify the licensee within 30 days of the receipt of the emergency intervention plan whether the emergency intervention plan has been approved, denied or if additional information is needed.

(1) If the plan is denied, the licensee may appeal the decision using the procedures specified in California Code of Regulations, Title 22, Section 80040(d).

(m) If the Department determines that the licensee has not complied with the emergency intervention plan requirements as specified in Sections 87095.22(a) through (k), the licensee must discontinue the use of emergency interventions immediately upon written notice of deficiency by the Department.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1180.4, 1501, 1502, 1531, 1562.01, and 1563(c)(4), Health and Safety Code.

87095.23 PROTECTIVE SEPARATION ROOM.

(a) In addition to Section 87095.22, any licensee with an approved emergency intervention plan which includes the use of a protective separation room, must comply with the following requirements:

(1) No protective separation room may be used for another purpose, e.g. bedroom, bathroom, storage.

(2) No protective separation room may be used without a fire clearance from the local fire authority.

(A) The request for the fire clearance must be made through and maintained by the Department.

(3) No protective separation room may be used without prior inspection and approval by the Department.

(4) Protective separation rooms must be safe and free of hazards such as objects or fixtures which can be broken or used by a child to inflict injury to self or others.

(5) Procedures regarding the use of the protective separation room must be included in the manual restraint plan component of the emergency intervention plan. These procedures must include the following to ensure a child's safety when placed in a protective separation room:

(A) Staff must maintain direct visual contact with the child at all times, and be free from other responsibilities, to ensure the child's safety while in the room.

1. Staff must remain in the room, when necessary, to prevent injury to the child.

(B) Staff must ensure that there are no objects in the child's possession that could be used to inflict injury to themselves or others while in the protective separation room.

(C) No more than one child shall be placed in the protective separation room at any one time.

(D) Physical abuse, corporal punishment, threats or prohibited restraints may not be used as a method for placing a child in the protective separation room.

(6) In addition to Section 87095.22(i), facility social work personnel and the child's authorized representative must indicate, in writing, in the child's needs and services plan if the child may be placed in the protective separation room.

(7) A child placed in a protective separation room may not be deprived of eating, sleeping, toileting or other basic daily living functions.

(8) Exiting from a protective separation room may not be prevented by the use of locking or jamming devices.

(A) The door may be held shut in a manner that allows for immediate release upon removal of a staff member's foot, hand, and/or body.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1180.4, 1501, 1502, 1531, 1562.01, and 1563(c)(4), Health and Safety Code.

87095.24 RUNAWAY PLAN.

(a) The licensee must develop, maintain and, when necessary, execute a written runaway plan. The runaway plan must describe how staff will respond to the following:

(1) Runaway child(ren).

(2) Child(ren) outside of the facility property without permission, but within view of the staff.

(b) The runaway plan must be trauma-informed, culturally relevant, appropriate for the age, size, emotional, behavioral and developmental level of the child(ren) and account for the particular traumas of specialized populations, including, but not limited to, commercially sexually exploited children.

(c) The runaway plan must include the following:

(1) Time frames for determining when a child is absent without permission.

(2) Continuum of interventions, including early interventions to prevent runaways.

(3) Actions for staff to take to locate the child.

(4) Staff training plan, to include non-physical interventions, strategies to de-escalate a situation.

(5) Plan to include the involvement of law enforcement, when appropriate, consistent with the policies and procedures specified in Section 87095.22(e)(1)(B) and Section 87095.22(f)(6)(A).

(6) Procedure for notifying the child's authorized representative.

(7) Procedure for notifying staff that a child is absent without permission at the change of shift.

(8) Procedure for complying with Reporting Requirements specified in Section 87061(i).

(9) Procedures for management review of incident reports, policies, and practices to determine the cause of, and to develop strategies to address, runaway children, both

on an individual and facility-wide level. Procedures must include regular management reviews to be conducted at least once a year.

(d) The runaway plan must be included in the program statement for the short-term residential therapeutic program.

(e) The runaway plan described in Section 87095.24(a), must be provided to, and discussed with, each child and their authorized representative, if any, at the time of admission.

(1) If, during the discussion, it is determined that the child has a history of running away from placement or is identified as having been commercially sexually exploited, then the following must occur:

(A) The facility social work personnel and the child's authorized representative, if any, must develop an individualized plan for that particular child, taking into consideration any recommendations provided by the child and family team.

(B) The individualized plan must be included in the child's needs and services plan, taking into consideration any recommendations provided by the child and family team.

(C) The individualized plan must include a plan to prevent and discourage children from running away.

(f) Manual restraints must only be used if the facility has an approved manual restraint plan, in accordance with Section 87095.22.

(g) The licensee is prohibited from preventing a child from leaving the facility by locking the child in a room or any part of the facility.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1180.4, 1501, 1502, 1531, 1562.01, and 1563(c)(4), Health and Safety Code.

ARTICLE 10.6. CONTINUING REQUIREMENTS

87095.61 DOCUMENTATION AND REPORTING REQUIREMENTS.

(a) Each incident ~~use~~ of manual restraint~~s~~ must be reported to the Department and the child's authorized representative by telephone no later than the next working day following the incident. A written incident report must be submitted to the Department within seven (7) days, as required by California Code of Regulations, Title 22, Section 80061.

(1) If a child is restrained more than once in a 24-hour period, each incident ~~use~~ of manual restraint~~s~~ must be reported.

(2) Incident reports of manual restraints must follow the requirements set forth in Section 87061(i)(~~6~~1)-(7)(A)- (L~~K~~).

(3) Incident reports of manual restraints shall be submitted through the Department's online portal.

(b) Any report of the use of manual restraints must be reviewed, for accuracy and completeness, and signed by the administrator or administrator's designee following the incident.

(c) A copy of the written incident report must be maintained in the child's record.

(d) Incident reports must be shared with the placing agency and must maintain the confidentiality of the child's identity.

(e) The information required in Section 87095.61(a) must be documented immediately following the use of manual restraints or no later than the end of the working shift of the staff member(s) who participated in the manual restraint.

~~(f) The child's record must be available for review by the Department, as required in California Code of Regulations, Title 22, Section 80070.~~

(f) Within seven (7) days of the incident, the licensee shall provide both a written and oral description of the manual restraint to the child, the child's authorized representative and,

the child's attorney, if any, and for Indian children, the Tribal representative. The description must contain, at minimum, the following requirements:

(1) The actions taken during the incident.

(2) The rationale for the actions.

(3) The personnel implementing the actions.

(4) The duration of the incident.

(g) The licensee must maintain a monthly log of each use of manual restraints. The log must include:

(1) Name of each child.

(2) Date and time of the intervention.

(3) Duration of the intervention.

(4) Name(s) of facility staff member(s) who participated in the manual restraint.

(5) Description of the type of emergency interventions, used, including de- escalation techniques, before the use of manual restraints.

(6) Result of licensee review.

(h) The monthly log must be available for review, and subject to reproduction by the Department, upon request during normal business hours.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1180.4, 1180.55, 1501, 1502, 1531, 1562.01, and 1563(c)(4), Health and Safety Code.

87095.65 EMERGENCY INTERVENTION STAFF TRAINING.

(a) No staff shall use emergency intervention techniques on a child until they have obtained written certification from the training instructor for successfully completing the emergency intervention training required in Section 87095.65(b).

(1) All new and existing staff who use or participate in emergency interventions, as well as the facility administrator and the administrator's designee must complete the training.

(b) The emergency intervention training curriculum must address the following areas:

(1) Techniques of group and individual behavior management, including, but not limited to, crisis prevention, precipitating factors leading to assaultive behavior and crisis intervention.

(2) Trauma-informed and evidence-based methods of de-escalating volatile situations, including non-physical intervention techniques such as crisis communication, evasive techniques, alternative behavior.

(3) Alternative methods of handling aggressive and assaultive behavior.

(4) If the licensee chooses to use manual restraints, the physical techniques of applying manual restraints in a safe and effective manner ranging from the least to most restrictive type(s) of restraints including, but not limited to, escorting~~,~~ and wall restraint~~., and prone containment.~~

(5) Techniques for returning the child to the planned activity following completion of the emergency intervention.

(6) The training must include a written and hands-on competency test as part of the training program.

(7) The facility's policies and procedures concerning when and how to involve law enforcement in response to an incident involving a child residing in the facility, as specified in Section 87095.22.

(8) Information regarding emergency interventions that are prohibited as specified in Section 87095.01.

(c) The training must be provided by an individual who holds a valid instructor certificate from a program of managing assaultive behavior that is consistent with Article 10 of these regulations.

(d) The licensee must maintain a written record of the facility staff training.

(1) Documentation of training received must be maintained in the personnel record for each staff member and must include:

(A) Dates, hours, and description of the training completed.

(B) Name and training certificate of the instructor who provided the training.

(C) Certification from the instructor that the staff member has successfully completed the competency test.

(2) The staff training record must be made available for review by the Department upon request.

(e) Staff must receive on-going training to maintain certification.

(f) When an unjustified manual restraint technique is used during an emergency intervention, the licensee must develop a corrective action plan, and as part of the plan may require staff to repeat the appropriate emergency intervention training.

(1) Staff involved in the use of an unjustified manual restraint technique shall not be authorized to perform manual restraints until the corrective action plan has been completed.

(2) The corrective action plan shall be included in bi-annual review of the emergency intervention plan, pursuant to Section 87095.22(h)(4).

NOTE: Authority cited: Sections 1530. and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1180.4, 1501, 1502, 1531, 1562.01, and 1563(c)(4), Health and Safety Code.

87095.66 STAFFING REQUIREMENTS.

(a) The administrator or administrator's designee must oversee the emergency intervention program and is responsible for ensuring that provisions of Article 10, Sections 87095.00 through 87095.69 are met.

(b) All staff who will use emergency interventions must be trained in the appropriate emergency intervention techniques approved to be used by the licensee.

(c) A minimum of two (2) trained staff must be available and responsible for using each manual restraint if the restraint technique requires the use of two people.

(d) Additional staff must be available to supervise the other children in placement when the trained staff are required to use manual restraints as specified in Section 87095.22(d)(8).

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1180.4, 1501, 1502, 1531, 1562.01, and 1563(c)(4), Health and Safety Code.

87095.68 DEBRIEFING AND REVIEW OF MANUAL RESTRAINT USE.

(a) The administrator or administrator's designee must discuss the use of the manual restraint with the staff involved and the mental health head of service no later than the next working day following the incident.

(1) The discussion regarding the use of the manual restraint shall include, at minimum the following:

(A) Exploring if there is anything the staff could have done differently to redirect the child and deescalate the situation;

(B) Assisting the staff in understanding the circumstances, including any triggering situation or incident, surrounding the child's behavior that preceded the staff's use of manual restraint;

(C) Assisting the staff in identifying and developing alternative methods of responding to the child's behaviors; and

(D) Determining whether the child's personal rights were violated and the steps that will be taken to address the violation.

(b) The administrator or administrator's designee must offer a debriefing to the child involved with the use of manual restraint. If the child chooses to attend the debriefing, the debriefing process with the child shall take place and be facilitated in a trauma-informed manner. The debriefing shall include:

(1) The following individuals, at minimum:

(A) The child who was manually restrained;

(B) The child's authorized representative, if applicable;

(C) The mental health head of service; and

(D) The administrator or their designee.

(E) Other individuals requested by the child, such as the child's attorney or support person chosen by the child. The individuals are not required to attend the debriefing.

(2) Assisting the child with the following:

(A) Exploring if there are any ways the staff could have acted differently to deescalate the situation;

(B) Assisting the child in identifying the circumstances, including any triggering situation surrounding their behavior that led to the use of manual restraint;

(C) Assisting the child in identifying alternative ways to avoid or cope with difficult situations such as those that led to the use of manual restraint; and

(D) Assessing whether the child's physical and psychological wellbeing was impacted, and what services, if any, should be provided to support the child.

(c) The administrator or administrator's designee must determine whether the emergency intervention action taken by the staff member(s) was consistent with the emergency intervention plan, and document the findings in the child's record and facility monthly log as specified in Section 87095.61. The manual restraint review must evaluate and document the following:

(1) Whether the staff attempted to redirect the child or de-escalate the situation, including the type of interventions that were used and whether the staff attempted at least two non-physical interventions.

(A) If the use of any de-escalation technique caused an escalation of the child's behavior, the use of the technique must be evaluated for its effectiveness. De-escalation techniques which are ineffective or counter- productive must not be used.

(2) Whether the manual restraint was used only after less restrictive techniques were used and found to be unsuccessful.

(3) Whether the child was restrained for the minimum amount of time, limited to when the child was presenting an immediate danger to themselves or others.

(4) What steps the facility will take for continuous quality improvement identified during the evaluations described in subdivisions (a) and (b).

(5) Any revisions needed to the child's needs and services plan to avoid future use of manual restraint.

(6) The child's refusal to participate in the debriefing, if applicable, and the reason for declining, if any.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1180.45, 1501, 1502, 1531, 1562.01, and 1563(c)(4), Health and Safety Code.

87095.69 MEDICAL EXAMINATION.

(a) The administrator or the social work staff shall be responsible for obtaining a physical examination during or after an incident of emergency intervention when it is determined that:

(1) There is physical injury to a child, or

(2) There is a suspected injury to a child, or

(3) Upon the child's request

(b) The administrator or the social work ~~supervisor~~ staff must see and talk with the child before a determination can be made.

(c) If no physical examination is necessary, this decision must be documented in the child's record.

(d) Any post emergency intervention injury or suspected injury observed by staff, or any complaint of injury reported to staff, must be reported immediately to the administrator or social work staff.

NOTE: Authority cited: Sections 1530, and 1562.01(q), Health and Safety Code; AB 403, Stats. 2015, Ch. 773, Sec. 123; AB 1997, Stats. 2016, Ch. 612, Sec. 131; AB 404, Stats. 2017, Ch. 732, Sec. 126; AB 153, Stats. 2021, Ch. 86, Sec. 57. Reference: Sections 1180.4, 1501, 1502, 1531, 1562.01, and 1563(c)(4), Health and Safety Code.

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